

Self Contained Breathing Apparatus in Correctional Facilities

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Introduction:

Maintaining detention facility safety and security has always been the goal of California Sheriffs. The self-contained breathing apparatus has long been a standard piece of safety equipment used in California's local detention facilities in the event of a fire or an incident resulting in hazardous breathing conditions. The device allows officers to perform limited duties including the completion of a facility evacuation. Many facilities are constructed in such a manner that evacuation can only be successfully completed if sufficient staff remains within the building to open doors and direct officers, inmates and support staff to safety.

Recent changes in the laws governing the enforcement and penalties surrounding safety rules under both the California and Federal OSHA standards has raised the concern of many correctional professionals. At the request of several California Sheriffs, the California State Sheriff's Association was asked to facilitate a review of the surrounding issues and offer some suggestions for compliance. Sheriff Curtis Hill of San Benito County is the Chairman of the California State Sheriffs Association Subcommittee on Detentions and Corrections for 2001-2002. Sheriff Hill assembled a workgroup to develop an "Issues Paper" to assist the correctional professional in their operational planning.

With the passage of Assembly Bill 1127, in 1999 (see appendix A), California government agencies are no longer exempt from fines for safety violations. Effective January 2000, government agencies can be fined for safety violations. The fine for major violations was increased and can range from tens of thousands to millions of dollars for multiple uncorrected major violations.

All correctional facilities in California have some type of rescue and/or evacuation policy in case of a fire or other type of hazard. This policy may be anything from opening all the doors to the facility and releasing the inmates, hoping you can recapture them at a later time, to a more defined policy of having employees escort the inmates to safe areas within or outside of the facility. Regardless of what the policy is, employees working inside of a facility during hazardous conditions must be supplied the safety equipment to safely and effectively do their job. The obvious primary safety equipment for hazards from fire, chemical or biological emergencies is the self-contained breathing apparatus.

In a recent sample survey conducted by the Board of Corrections Standards for Training in Corrections¹ (STC), 94% of the correctional facilities that participated in the survey currently provide SCBA's for the employees to use during emergencies.

Executive Summary:

The first and foremost question is whether correctional facilities in the State of California are required to supply and maintain Self Contained Breathing Apparatuses (SCBA). There are currently no State Fire or Building Code statutory requirements mandating detention facilities to provide self-contained breathing apparatus for use by employees in case of fire or any other emergency. However, the California² Code of Regulations, Title 8, Section 5144, (OSHA Regulations) states:

(2) Respirators shall be provided by the employer when such equipment is necessary to protect the health of the employee. The employer shall provide the respirators which are applicable and suitable for the purpose intended. The employer shall be responsible for the establishment and maintenance of a respiratory protection program which shall include the requirements outlined in subsection (c).

Subsection (C) states:

Respiratory protection program. This subsection requires the employer to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator. In addition, certain program elements may be required for voluntary use to prevent potential hazards associated with the use of the respirator.

...

California Code of Regulations, Title 15 § 1028 requires local detention facilities, in conformance to Penal Code § 6030(c), to have at least one person on duty at all times who meets the training standards established by the Board of Corrections for general fire and life safety which relate specifically to the facility. Section 1028 goes on to state that although the regulation requires only one member of the staff on duty be trained, it is recommended that all facility staff be trained in fire and life safety.³ The training should include the use of self-contained breathing apparatus if required by local fire authority or if this equipment is available to staff. Staff should know the location of fire doors, barriers, evacuation procedures and be able to use fire hoses and extinguishers.

In the event of a fire or other biohazard such as chemical fumes, employees must be prepared to follow an established evacuation and rescue plan. This may involve extinguishing an incipient fire,⁴ moving inmates for evacuation during a structural fire or rescuing inmates and employees who have become incapacitated due to smoke or fumes. The Adult Corrections Officer Core Training Course provides eight hours of Fire and Life Safety training, which includes extinguishing fires and evacuating inmates if necessary. During this core of instruction, the student is required to identify dangers from the spread of smoke and gases in the correctional facility. It is also during this portion of the basic academy that students receive mandated training on the self-contained breathing apparatus.

Considering the OSHA requirement, coupled with the Title 15 guidelines and training provided to correctional officers in the Adult Corrections Officer Core Training Course, it is the opinion of the sub-committee tasked with providing information for this issue paper, that correctional facilities are required to provide and maintain the self contained breathing apparatus in compliance with current OSHA standards if their staff is expected to remain inside the building to facilitate an evacuation or coordinate a fire response.

Once an agency determines they are going to provide and maintain the self-contained breathing apparatus they must also meet all the conditions outlined in Title 8, Section 5144, of the California Code of Regulations. This includes establishing and implementing a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that effect respirator use. The employer shall include in the program the following provisions, as applicable:

1. Procedures for selecting respirators for use in the workplace⁵;
2. Medical evaluations of employees required to use respirators;
3. Fit testing procedures for tight-fitting respirators;
4. Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;
5. Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;
6. Procedures to ensure adequate air quality, quantity, and flow of breathing air for any limitations on their use, and their maintenance; and
7. Procedures for regularly evaluating the effectiveness of the program...

Each of the requirements to come into compliance with the regulations can be done during the hiring process, the basic academy, and during annual Advanced Jail Training.

MYTH: We don't really need SCBA's in correctional facilities.

FACT: While there are no codified sections mandating SCBA's be kept and maintained in correctional facilities, OSHA regulations state, "Respirators shall be provided by the employer when such equipment is necessary to protect the health of the employee." Considering the duties of employees during fire or other chemical hazards, respirators are necessary to protect the health of the employee.

Recommendations:

The following are recommendations made by the sub-committee:

- Review your department policies for expectations of your employees. Does their job description put them in a position where the use of a SCBA may be required? Some of the job descriptions could include rescue and evacuation of the facility in case of a fire, cell extractions, crowd control, or emergency team/SWAT type operations.
- Consult with your County Counsel regarding your department policy, employee expectations, and how you will deal with employees that can't qualify to wear a SCBA.
- Network with your fire department and make sure you understand each other's expectations. Do you expect them to evacuate your jail while fighting fires? Do

they expect you to provide employees inside the facility during fire fighting to open doors and lead them around?

- Consult with your local fire department to determine what SCBA equipment they use (for compatibility), and are they willing to do refills and hydrostatic testing of the bottles for you.
- Make wearing a SCBA part of the minimum requirement for hiring of new employees and print it in your job descriptions.
- Make the SCBA medical questionnaire part of the hiring medical.
- Make the annual fit testing part of the Annual Advanced Jail Training to keep employees current.

A.B. 1127:

In July 1991, Senate Bill 198 became effective as Section 10.6401.7 of the California Code of Regulations, requiring all employers to establish and maintain an effective employee injury and illness prevention program (IIPP). For compliance to this law, each department within a county was also required to implement and maintain an effective safety program. Senate Bill 198 provided sanctions for non-compliance in that California's Director of Industrial Relations had the authority to revoke a county's certificate to self-insure its worker compensation exposure for non-compliance. As you will see, AB 1127 has added additional teeth to SB 198.

AB1127 initiated a number of changes to the Labor Code that will have an impact on Sheriff's Departments throughout California. The following changes took effect January 1, 2000.

Labor Code Section 6304.5 – Provisions of Title 8 (California Safety and Health Act) and citations for violations of Title 8 were previously not admissible in personal injury or wrongful death actions. As a result of AB1127, Title 8 standards may be entered into evidence civil suits involving personal injury or wrongful death.

Labor Code Section 6309 – OSHA must now investigate complaints made by an "employee representative," which has been expanded to include an attorney, health or safety professional, union representative or a representative of a government agency. Time periods for investigation of an allegation of a "serious violation" from a state or local prosecutor must be investigated within 24 hours, rather than the previously required three days.

Labor Code Section 6432 – "Serious Violation." Now states that if there is a substantial probability that death or serious physical harm could result from an exposure.... from one or more practices, means, methods, operations or processes which have been in use, unless the employer did not and could not, with the exercise of reasonable

diligence, know of the presence of the violation. The burden of proof has now been shifted to the employer to prove that they should/could not have known about the violation. Also, serious injury or death is no longer required. Now a substantial probability that death or physical harm could result is sufficient.

Labor Code Section 6423 – Criminal Penalties. Every employer, officer, management official or supervisor having direction, management, control of custody of any employment, place of employment or other employee is guilty of a misdemeanor for knowingly, negligently or repeatedly violating any standard, order or special order, if the violation is determined to be a “serious violation.” Penalties have been enhanced from the previous, “a county jail term of up to six months and a fine of up to \$5,000.” to include. *“a county jail term of up to one year and a fine of up to \$15,000 for repeated violations, failure to comply or inducing another to violate a safety order; and up to \$150,000 for corporations.”* (It is the opinion of the Riverside County Safety Office that corporate violations/penalties could also be applied to government entities).

Labor Code Section 6425 / Penal Code Section 387 – Violations causing Death or Permanent/Prolonged Impairment. Every employer... guilty of a willful violation that results in death or permanent/prolonged impairment is subject to a jail term of up to one year and/or fine up to \$1,000,000 or state prison term between 16 months and three years and/or fine of up to \$250,000. For a corporation the fine can be up to \$1,500,000. If this violation is committed within seven years of a 6423 violation (see above), the penalty is a state prison term of 16 months to three years and a fine of up to \$250,000. Corporate penalties include fines between \$500,000 and \$2,500,000. Maximum penalties for willful and repeated violations result in two to four year prison terms and/or personal fines of \$250,000 and corporate fines up to \$3,500,000. *(Two managers in a small So. Ca. City were recently charged with violations of this Penal Code Section).*⁶

Labor Code Section 6428 – Civil Penalties. Civil penalty has now been increased from \$7,000 per violation to up to \$25,000 for each violation. Further, employers who do not

have an operation Injury and Illness Prevention Program receive no adjustment in penalty for good faith or history of pervious violations.

Labor Code Section 6429 – Will Violations. Civil penalty is up to \$70,000 for each violation, with no adjustments for good faith or history of pervious violations.

Labor Code 6430 – Failure to Correct Noted Deficiencies. The civil penalty has been raised from up to \$7,000 a day, to up to \$15,000 per day.

Labor Code 6434 – Public entities Cited for Safety or Health Violations. Prior to January 1, 2000, public entities were exempt from civil penalties, including failure to correct noted deficiencies. AB 1127 eliminated this exemption. Public entities, to include Sheriff's Departments, are now subject to any and all of the above listed civil penalties.

According to Ray Acree, a Compliance Consultation Officer with the San Bernardino Cal/OSHA Consultation Services, 75% of OSHA's inspections are in response to employee complaints or employee injury. The remaining 25% of their inspections are Program Targeted Industry Inspections.⁷ The current target industries are construction and agriculture, but because of the changes in laws and the removal of exemptions by AB 1127, we should anticipate that future target groups might include law enforcement and/or fire service agencies.

Although an injury or complaint that triggers an OSHA inspection may only involve a single, specific violation, once OSHA opens an investigation, any and all violations located are subject to penalty and fine.

Respiratory Protection Program:

The Standard

Whenever respirators are required to be worn, a written respirator protection program must be developed and implemented in accordance with OSHA's respirator standard, 29 CFR 1910.134 (Additional program requirements may be found in the standards that regulate the hazards to which the employee is exposed.) Because workplaces differ substantially, each program must be tailored to the specific conditions of the workplace. The program must consist of worksite-specific procedures governing the selection, use, and care of respirators. The program must be updated as often as necessary to reflect changes in workplace conditions and respirator use.

The Worksite Specific Procedures

The Worksite Specific Procedures must contain all the information needed to maintain an effective respirator program to meet the user's individual requirements. These procedures are a set of step-by-step instructions written so that a task (i.e., respirator use, fit-testing procedures, cleaning and storage, etc.) can be performed by all personnel in a uniform and consistent way, while supplying the maximum protection for workers who use respirators in the workplace. The employer must anticipate the routine and non-routine use of respirators, as well as any possible emergency use based on the conditions in the workplace in which they are to be used. Worksite-specific procedures must be written so as to be useful to those who are directly involved in the respirator program: the program administrator, those fitting the respirators and training the workers, respirator maintenance workers, and the supervisors responsible for overseeing respirator use on the job.

MYTH: It seems like we will have to provide respirators for everyone, including inmates in a hazardous situation.

FACT: We are not required to provide SCBA's for inmates because they do not fall under the guideline of employee. Office personnel who do not have responsibilities, except escape, during a hazard, are not normally required to have SCBA's provided.

Administration

In addition, the respirator standard requires that the respiratory protection program be administered by one qualified individual to ensure that the integrity of the respiratory protection program is maintained through the continuous oversight of one responsible person. The program administrator must be qualified by appropriate training and/or experience in the proper selection, use, and maintenance of respirators, be responsible for implementing the respiratory protection program, and conduct regular evaluations of the program's effectiveness.

Although responsibility for respirator program oversight rests with the program administrator, he or she may delegate responsibilities to other qualified individuals. For instance, a large facility may find it practical and economical to have a staff of personnel involved in the respirator program, each with their own area of responsibility. However, each of these people must report to the one administrator who has overall responsibility for the program. This approach promotes coordination of all facets of the program. The administrator should have the full support of higher-level management; without it, an effective respirator program is difficult to initiate and maintain.

Elements

The respiratory protection program must cover the following basic elements, as applicable:

- Procedures for selecting respirators for use in the workplace;
- Medical evaluations of employees required to use respirators;

- Fit testing procedures for tight-fitting respirators;
- Use of respirators in routine and reasonably foreseeable emergency situations;
- Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, and otherwise maintaining respirators;
- Procedures to ensure adequate air quality, quantity and flow of breathing air for atmosphere-supplying respirators;
- Training of employees in the respiratory hazards to which they are potentially exposed;
- Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and maintenance procedures; and
- Procedures for regularly evaluating the effectiveness of the program.

Time period respirator is worn

The employer must also consider the period of time during which the respirator will be used by employees during a work shift. Breakthrough times for different chemicals can vary greatly, and are dependent on the concentrations of contaminants in the workplace air, patterns of respirator use, and environmental factors including temperature and humidity. A respirator that provides adequate protection for one chemical may be inadequate for another chemical with a different breakthrough time. In addition, employees wearing respirators for longer periods of time may need respirators that impose the minimum possible physical burden.

Work activities and stress

The work activities of employees while wearing respirators are also a factor. Heavy work that is physically draining may affect an employee's capability of wearing certain types of respirators. Temperature and humidity conditions in the workplace may also affect the physical/psychological stress level associated with wearing a respirator, as well as the effectiveness of respirator filters and cartridges. These types of factors must be assessed in selecting the appropriate equipment for a particular work situation.

Fit testing

Some employees may be unable to achieve an adequate fit with certain respirator models or a particular type of respirator -- such as half-mask air-purifying respirators -- so an alternative respirator model with an adequate fit or other type of respirator that provides adequate protection must be used. Therefore, it is necessary for employers to

provide a sufficient number of respirator models and sizes from which employees can choose an acceptable respirator that fits correctly.

MYTH: We are going to have to buy custom equipment for each employee that has a different head size or wears corrective lens.

FACT: The medium size mask fits most face sizes and shapes. Contact lens can be worn with the masks. Special considerations may have to be given for glasses and beards.

Physical characteristics, functional capabilities, and limitations of respirators

The last category of information to be considered when selecting respiratory protection is the physical characteristics, functional capabilities, and limitations of the respiratory protection equipment itself. Respirators selected must not impair the worker's vision, hearing, communication, and physical movement necessary to perform jobs safely.

Selection of Respiratory Equipment:

Once the above factors have been taken into account, the employer must select a NIOSH-certified respirator. Where NIOSH has not specifically certified any respirator for use against the particular contaminant present in the workplace, the employer must select a NIOSH-certified respirator that has no limitation prohibiting its use for that contaminant. The respirator must be appropriate for the contaminant's physical form and chemical properties and the conditions under which it will be used. All respirators must be chosen and used according to the limitations of the NIOSH certification, which appears on the NIOSH certification label.⁸

MYTH: There are no funds other than the normal budget process to acquire SCBA's.

FACT: Many agencies are of the opinion that the SCBA's qualify for purchase under the Inmate Welfare Fund as well as the maintenance costs to keep them in service.

Warning Systems

When an air-purifying respirator is selected for protection against gases and vapors, a system must be in effect that will reliably warn respirator wearers of contaminant breakthrough. These systems are: a respirator equipped with an end-of-service life indicator (ESLI) certified by NIOSH for the contaminant, or an established and enforced cartridge/canister change schedule that is based on objective information or data that will ensure that canisters and cartridges are changed before the end of their service life.⁹

Atmospheres Requiring Highest Levels of Protection

For atmospheres that are immediately dangerous to life and health (IDLH), the highest level of respiratory protection and reliability is required. These atmospheres, by definition, are the most dangerous environments in which respirators are used. In these atmospheres, there is no tolerance for respirator failure. Consequently, only the following respirators must be provided and used: full-face piece pressure demand self-contained breathing apparatus (SCBA) certified for a minimum service life of thirty minutes, or a combination full-face piece pressure demand supplied-air respirator (SAR) with an auxiliary self-contained air supply.¹⁰

Medical Evaluations:

Overview

Persons assigned to tasks that require the use of a respirator must be physically able to perform the work while using the respirator. Accordingly, employers have the responsibility of ensuring that employees are medically fit to tolerate the physical and psychological stress imposed by respirator use, as well as the physical stress originating from job and workplace conditions.

Employees must be medically evaluated and found eligible to wear the respirator selected for their use prior to fit testing or first-time use of the respirator in the workplace. Medical eligibility is to be determined by a physician or other licensed health care professional (referred to as a "PLHCP"). A variety of qualified health care providers, besides physicians, including occupational health nurses, nurse practitioners, and physician assistants, can perform the medical evaluations provided they are licensed to do so in the state in which they practice.¹¹

MYTH: We are going to have to do medical exams on employees every year, creating prohibitive medical costs.

FACT: The medical is just a questionnaire and can be done one time during the hiring process. Existing employees complete the questionnaire and send it to a designated County medical officer. If a follow up physical exam is required, it could be as simple as an office visit.

Questionnaire

In assessing the employee's medical eligibility to use a respirator, the PLHCP must perform a medical evaluation using a medical questionnaire or provide a medical examination that obtains the same information as the medical questionnaire. The medical evaluation must be administered confidentially and at a time and place, during working hours, that is convenient to the employee. Employers are free to provide respirator users with a medical examination in lieu of the medical questionnaire if they chose to do so, but they are not required by the standard to administer a medical examination unless the employee gives a positive response to specific questions on the questionnaire.¹²

MYTH: Employees fear the department will review the answers to the medical questionnaires violating their privacy. This will create problems with the employee unions.

FACT: The questionnaires are confidential and are only seen by the medical examiner. Once handed out, the questionnaire is sent directly to a medical examiner. The report to the employer is a clearance only and says the employee can or cannot wear an SCBA.

Medical Factors and Conditions

The purpose of a medical evaluation program is to determine if employees can tolerate the physiological burden associated with respirator use, including: the burden imposed by the respirator itself (e.g., its weight and breathing resistance during both normal operation and under conditions of filter, canister, or cartridge overload); musculoskeletal stress (e.g., when the respirator to be worn is a SCBA); limitations on auditory, visual, and olfactory sensations; and isolation from the workplace environment. Since certain jobs and workplace conditions in which a respirator is used can also impose a physiological burden on the user, the medical evaluation must also consider the following factors: type and weight of the respirator to be worn; duration and frequency of respirator use; expected physical work effort; use of protective clothing and equipment to be worn; and temperature and humidity extremes that may be encountered. This information must be provided to the PLHCP before the PLHCP makes a recommendation regarding an employee's ability to use a respirator.

The medical evaluation is designed to identify general medical conditions that place employees who use respirators at risk of serious medical consequences. Medical conditions known to compromise an employee's ability to tolerate respirator-, job-, and workplace-related physiological stress include: cardiovascular and respiratory diseases (e.g., a history of high blood pressure, angina, heart attack, cardiac arrhythmias, stroke, asthma, chronic bronchitis, emphysema); reduced pulmonary function caused by other factors (e.g., smoking or prior exposure to respiratory hazards); neurological or musculoskeletal disorders (e.g., ringing in the ears, epilepsy, lower back pain); impaired sensory function (e.g., perforated ear drums, reduced or absent ability to smell); and psychological disorders (e.g., claustrophobia and severe anxiety).

Standard of Evaluation

The employer must obtain a written recommendation from the PLHCP on whether the employee is medically able to wear a respirator. The recommendation must identify any limitations on the employee's use of the respirator, as well as the need for follow-up medical evaluations that are needed to assist the PLHCP in making a recommendation. The employee must also receive a copy of the PLHCP's written recommendations. A powered air-purifying respirator (PAPR) must be provided to an employee if information from the medical evaluation indicates that the employee can use a PAPR but not a negative pressure respirator. If, subsequent to this evaluation, the PLHCP determines that the employee is able to wear a negative pressure respirator, the employer is no longer required to provide a PAPR to that employee. In addition, the

standard requires the employer to medically re-evaluate an employee when: That employee reports medical signs or symptoms that are related to the employee's ability to use a respirator;

- A PLHCP, supervisor, or the respirator program administrator observes that the employee is having a medical problem during respirator use and they inform the employer of their observation;
- Information from the respiratory protection program, including observations made during fit testing and program evaluation, indicates a need for employee re-evaluation; or a change occurs in workplace conditions (e.g., physical work effort, type of respirator used, protective clothing, temperature) that may result in a substantial increase in the physiological burden placed on an employee.

Fit Testing:

It has long been recognized that respirators must fit properly to provide protection. To obtain adequate respiratory protection, there must be a proper match between respirator and wearer. Respirators that don't seal properly around the face offer only the illusion of protection. To accommodate the variability of face size characteristics among individuals, a number of manufacturers offer face pieces in several sizes and models.¹³

Purpose

The primary purpose of fit testing is to identify the specific make, model, style, and size of respirator best suited for each employee. In addition, fit testing also provides an opportunity to check on problems with respirator wear, and reinforces respirator training by having wearers review the proper methods of donning and wearing the respirator.

Requirement

Fit testing is required for all negative or positive pressure tight-fitting face piece respirators. The OSHA respiratory protection standard requires that fit testing be performed before an employee first starts wearing a respirator in the work environment, whenever a different respirator face piece is used, and at least annually thereafter.

Method

Prior to the actual fit test, the employee must be shown how to put on a respirator, position it on the face, set strap tension, and determine an acceptable fit. Next, the employee must be allowed to choose a respirator from a sufficient number of models and sizes so that the employee can find an acceptable and correctly fitting respirator. Once an acceptable respirator has been found -- which takes into account the position of the mask on the face, nose, and cheeks; room for eye protection; and room to talk -- a user seal check must be conducted.

Types of Fit Testing

Fit testing may either be *qualitative (QLFT)* or *quantitative (QNFT)*, and must be administered using an OSHA-accepted QLFT or QNFT protocol. These protocols are described in mandatory. Prior to the commencement of the fit test, the employee must be given a description of the fit test and a description of the exercises that he or she will be performing during fit testing. The respirator to be tested must be worn for at least five minutes before the start of the fit test. The employee must be fit tested with the same make, model, style, and size of respirator that will be used in the workplace.

Qualitative fit testing (QLFT)

Qualitative fit testing involves the introduction of a gas, vapor, or aerosol test agent into an area around the head of the respirator user. A determination is then made as to whether or not the wearer can detect the presence of the test agent through means such as odor, taste, or nasal irritation. If the presence of the test agent is detected inside the mask, the respirator fit is considered to be inadequate. There are four qualitative fit test protocols approved in OSHA's standard. The isoamyl acetate (IAA) test determines whether a respirator is protecting a user by questioning whether the user can smell the distinctive odor of IAA. Both the saccharin and Bitrex™ tests involve substances with distinctive tastes that should not be detected through an effective respirator. The irritant smoke (e.g., stannic chloride) test involves a substance that elicits an involuntary irritation response in those exposed to it.

Before conducting a qualitative test, the worker must undergo a sensitivity test to determine if he or she can taste, smell or react to the substance. When performing the isoamyl acetate test, the protocol requires that separate rooms be used for the odor screening and fit tests, and that the rooms be sufficiently ventilated to ensure that there is no detectable odor of IAA prior to a test being conducted. This will prevent olfactory fatigue among workers being fit tested by preventing a buildup of IAA in the general room air.

Quantitative fit testing (QNFT)

In a quantitative fit test, the adequacy of respirator fit is assessed by numerically measuring the amount of leakage into the respirator. This testing can be done by generating a test aerosol as a test atmosphere, using ambient aerosol as the test agent, or using controlled negative pressure (CNP) to measure the volumetric leak rate. Appropriate instrumentation is required to quantify respirator fit.

Retesting

If the employee finds the fit of the respirator unacceptable, he or she must be given a reasonable opportunity to select a different respirator and to be retested. In addition, retesting is required whenever an employee reports, or the employer, PLHCP, supervisor, or program administrator observe changes in an employee's physical condition that could affect respirator fit. Such conditions include, but are not limited to,

facial scarring, dental changes (e.g., wearing new dentures), cosmetic surgery, or an obvious change in body weight.

MYTH: This type of program is going to require extensive training at a high cost.

FACT: The training/testing is something that can be part of the Basic and CORE Academy training and the annual training can be done at the annual Advanced Jail Training.

Maintenance and Care:

Requirements

The OSHA standard requires that employers provide each respirator user with a respirator that is clean, sanitary, and in good working order. These requirements are a vital part of any successful respiratory protection program. To ensure that the respirator remains serviceable and delivers effective protection, maintenance program must be in place prior to respirator use.

The OSHA respirator standard strongly emphasizes the importance of a good maintenance program, but permits its tailoring to the type of facilities, working conditions, and hazards involved. However, all programs are required to include at least:

- Cleaning and disinfecting procedures;

- Proper storage;

- Regular inspections for defects (including leak check); and

- Repair methods.

In addition to the OSHA requirements, the manufacturer's instructions for inspection, cleaning, and maintenance of respirators should be consulted to ensure that the respirator continues to function properly. A proper maintenance program ensures that the worker's respirator remains as effective as when it was new.

Cleaning and Disinfecting

Cleaning and sanitizing respirators are necessary to prevent skin irritation, dermatitis, and to encourage worker acceptance. Where the contaminant is a dust, mist, or fume, build-up on the respirator face-to-face piece seal or within the respirator will reduce the protection provided by the respirator because the contaminant is in the breathing zone or has compromised the seal. In addition, the build-up of contamination on the respirator can contribute to the deterioration of the respirator's materials, which can lead to reduced protection. Full face pieces must be cleaned to ensure that employees can see through the face piece.

Respirators that are issued for the exclusive use of an employee must be cleaned and disinfected as often as necessary to be maintained in a sanitary condition. Respirators

used by more than one employee must be cleaned and disinfected prior to being used by a different individual. Respirators maintained for emergency use as well as respirators used in fit testing and training, must be cleaned and disinfected after each use. 14

Storage

All respirators must be stored so that they are protected against damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals. When respirators are packed or stored, the face piece and exhalation valve must be stored in a manner that will prevent deformation. Each respirator should be positioned so that it retains its natural configuration. Synthetic materials and even rubber will warp if stored in an unnatural shape, thus affecting the fitting characteristics of the face piece.

Respirators intended for emergency use must be kept accessible to the work area, but not in an area that might itself be involved in the emergency because such an area may become contaminated or inaccessible. Emergency-use respirators must be stored in compartments or covers that are clearly marked to indicate that they contain emergency respirators, and stored according to any applicable manufacturer instructions.

Inspection

To ensure the continued reliability of respiratory equipment, it must be inspected on a regular basis. The frequency of inspection and the procedures to be followed depend on whether the respirator is intended for non-emergency, emergency, or escape use only.

The OSHA standard requires that all respirators used in *non-emergency situations* be inspected before each use and during cleaning. Respirators designated for use in an emergency situation are to be inspected at least monthly and in accordance with the manufacturer's instructions, and checked for proper function before and after each use.¹⁵ *Emergency escape-only* respirators must be inspected before being carried into the workplace.

For all respirators, inspections must include a check of respirator function, tightness of connections, and the condition of the various parts including, but not limited to, the face piece, head straps, valves, connecting tube, and cartridges, canisters, or filters. In addition, the elastomeric parts must be evaluated for pliability and signs of deterioration.

For *SCBA's*, which require monthly inspections, the air and oxygen cylinders must be maintained in a fully charged state and recharged when the pressure falls to 90% of the manufacturer's recommended pressure level. In addition, the regulator and warning devices must be inspected to ensure that they function properly.

For respirators that are maintained for use in emergencies, the OSHA standard requires certifying the respirator by documenting the date that the inspection was performed, the name or signature of the inspector, the findings of the inspection, any required remedial action, and a serial number or other means of identifying the inspected

respirator. This information must be provided on a tag or label that is attached to the storage compartment for the respirator, is kept with the respirator, or is stored in the form of inspection reports (paper or electronic). The information must be maintained until it is replaced following a subsequent certification.

Repair

Respirators that fail to pass inspection or are otherwise found to be defective, must be removed from service, and discarded, repaired, or adjusted. Repairs or adjustments to respirators must be done only by appropriately trained personnel, using only the respirator manufacturer's NIOSH-approved parts designed for that respirator. The repairs also must be made in accordance with the manufacturer's recommendations and specifications regarding the type and extent of repairs to be performed. Because components such as reducing and admission valves, regulators, and alarms are complex and essential to the safe functioning of the respirator, they are required to be adjusted and repaired only by the manufacturer or a technician trained by the manufacturer.

MYTH: SCBA's are high maintenance equipment that require constant upkeep.

FACT: SCBA's are only required by OSHA to be inspected at least once a month. The hydrostatic testing is only required to be done once every five years. Unless used regularly, the SCBA's require very little maintenance. Many agencies already require staff to perform safety checks at shift change for all safety and security equipment including the SCBA.

Record Keeping:

The OSHA respiratory protection standard requires the employer to establish and retain written information regarding medical evaluations, fit testing, and the respirator program. This information will promote employee involvement in the respirator program, assist the employer in auditing the adequacy of the program, and provide a record for compliance determinations by OSHA.

Committee Note:

While doing research for this paper, a committee member contacted Cal-OSHA and requested their opinion on the subject of SCBA's in correctional facilities and how they view the requirement. The representative for Cal-OSHA was very non-committal, but stated that above all else, the safety and welfare of the employee is what we must consider most.

Glossary of Terms

The following definitions are important terms used in the respiratory protection standard and terms that will assist in the understanding and the application of the NIOSH decision logic.

Air-Purifying Respirator: A respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element. *OSHA Definition*

Assigned Protection Factor (APF): See [PROTECTION FACTOR](#). *NIOSH Definition*

Assigned Protection Factor (APF): [Reserved] *OSHA Definition*

Atmosphere-Supplying Respirator: A respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units. *OSHA Definition*

Breakthrough: The penetration of challenge material(s) through a gas or a vapor air-purifying element. The quantity or extent of breakthrough during service life testing is often referred to as the percentage of the input concentration. *NIOSH Definition*

Canister or Cartridge: A container with a filter, sorbent, or catalyst, or combination of these items, which removes specific contaminants from the air passed through the container. *OSHA Definition*

Demand Respirator: An atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation. *OSHA Definition*

Disposable Respirators: A respirator that is discarded after the end of its recommended period of use, after excessive resistance or physical damage, or when odor breakthrough or other warning indicators render the respirator unsuitable for further use. *NIOSH Definition*

Dust: A solid, mechanically produced particle with a size ranging from submicroscopic to macroscopic. *NIOSH Definition*

Emergency Respirator Use Situation: A situation that requires the use of respirators due to the unplanned generation of a hazardous atmosphere (often of unknown composition) caused by an accident, mechanical failure, or other means and that requires evacuation of personnel or immediate entry for rescue or corrective action. *NIOSH Definition*

Emergency Situation: Any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of an airborne contaminant. *OSHA Definition*

Employee Exposure: Exposure to a concentration of an airborne contaminant that would occur if the employee were not using respiratory protection. *OSHA Definition*

End-Of-Service-Life Indicator (ESLI): A system that warns the respirator user of the approach of the end of adequate respiratory protection; for example, that the sorbent is approaching saturation or is no longer effective. *OSHA Definition*

Escape Gas Mask: A gas mask that consists of a half-mask facepiece or mouthpiece, a canister, and associated connections, and that is designed for use during escape-only from hazardous atmospheres. *NIOSH Definition*

Escape Only Respirator: Respiratory devices that are designed for use only during escape from hazardous atmospheres. *NIOSH Definition*

Escape-Only Respirator: A respirator intended to be used only for emergency exit. *OSHA Definition*

Filter or Air-Purifying Element: A component used in respirators to remove solid or liquid aerosols from the inspired air. *OSHA Definition*

Filtering Facepiece: A particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium. (See [SINGLE-USE DUST or DUST and MIST RESPIRATORS](#) and [DISPOSABLE RESPIRATORS](#).) *NIOSH Definition*

Filtering Facepiece (Dust Mask): A negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium. *OSHA Definition*

Fit Factor: A quantitative measure of the fit of a specific respirator facepiece to a particular individual. *NIOSH Definition*

Fit Factor: A quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn. *OSHA Definition*

Fit Test: Means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual. (See also Qualitative fit test QLFT and Quantitative fit test QNFT.) *OSHA Definition*

Fume: A solid condensation particulate, usually of a vaporized metal. *NIOSH Definition*

Gas: An aeriform fluid that is in a gaseous state at standard temperature and pressure. *NIOSH Definition*

Helmet: A rigid respiratory inlet covering that also provides head protection against impact and penetration. *OSHA Definition*

High-Efficiency Particulate Air (Hepa) Filter: A filter that is at least 99.97% efficient in removing monodisperse particles of 0.3 micrometers in diameter. The equivalent NIOSH 42 CFR 84 particulate filters are the N100, R100, and P100 filters. *OSHA Definition*

Hood: Means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso. *OSHA Definition*

Immediately Dangerous to Life or Health (IDLH): Acute respiratory exposure that poses an immediate threat of loss of life, immediate or delayed irreversible adverse effects on health, or acute eye exposure that would prevent escape from a hazardous atmosphere. *NIOSH Definition*

Immediately Dangerous to Life or Health (IDLH): An atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere. *OSHA Definition*

Interior Structural Firefighting: The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. (See 29 CFR 1910.155) *OSHA Definition*

Loose-Fitting Facepiece: A respiratory inlet covering that is designed to form a partial seal with the face. *OSHA Definition*

Maximum Use Concentration (MUC): [Reserved] *OSHA Definition*

Mist: A liquid condensation particulate. *NIOSH Definition*

Negative Pressure Respirator (Tight Fitting): A respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator. *OSHA Definition*

Orinasal Respirator: A respirator that covers the nose and mouth and that generally consists of a quarter- or half-facepiece. *NIOSH Definition*

Oxygen Deficient Atmosphere: An atmosphere with an oxygen content below 19.5% by volume. *OSHA Definition*

Physician or Other Licensed Health Care Professional (PLHCP): Means an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide, or be delegated the responsibility to provide, some or all of the health care services required by paragraph (e) of this section. *OSHA Definition*

Planned or Unplanned Entry into an IDLH Environment, an Environment of Unknown Concentration of Hazardous Contaminant, or an Environment of Unknown Composition: A situation in which respiratory devices are recommended to provide adequate protection to workers entering an area where the contaminant concentration is above the IDLH or is unknown. *NIOSH Definition*

Positive Pressure Respirator: A respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator. *OSHA Definition*

Potential Occupational Carcinogen: Any substance, or combination or mixture of substances, which causes an increased incidence of benign and/or malignant neoplasms, or a substantial decrease in the latency period between exposure and onset of neoplasms in humans or in one or more experimental mammalian species as the result of any oral, respiratory, or dermal exposure, or any other exposure which results in the induction of tumors at a site other than the site of administration. This definition also includes any substance that is metabolized into one or more potential occupational carcinogens by mammals (29 CFR 1990.103, OSHA Cancer Policy). *NIOSH Definition*

Powered Air-Purifying Respirator (PAPR): An air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering. *OSHA Definition*

Pressure Demand Respirator: A positive pressure atmosphere- supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation. *OSHA Definition*

Protection Factors: *NIOSH Definition*

Assigned Protection Factor (APF): The minimum anticipated protection provided by a properly functioning respirator or class of respirators to a given percentage of properly fitted and trained users.

Simulated Workplace Protection Factor (SWPF): A surrogate measure of the workplace protection provided by a respirator.

Workplace Protection Factor (WPF): A measure of the protection provided in the workplace by a properly functioning respirator when correctly worn and used.

Qualitative Fit Test (QLFT): A pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent. *OSHA Definition*

Quantitative Fit Test (QNFT): Means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator. *OSHA Definition*

Recommended Exposure Limit (REL): An 8- or 10-hour time-weighted average (TWA) or ceiling (C) exposure concentration recommended by NIOSH that is based on an evaluation of the health effects data. *NIOSH Definition*

Respiratory Inlet Covering: The portion of a respirator that forms the protective barrier between the user's respiratory tract and an air-purifying device or breathing air source, or both. It may be a facepiece, a helmet, a hood, a suit, or a mouthpiece respirator with nose clamp. *OSHA Definition*

Self-Contained Breathing Apparatus (SCBA): An atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user. *OSHA Definition*

Service Life: The length of time required for an air-purifying element to reach a specific effluent concentration. Service life is determined by the type of substance being removed, the concentration of the substance, the ambient temperature, the specific element being tested (cartridge or canister), the flow rate resistance, and the selected breakthrough value. The service life for a self-contained breathing apparatus (SCBA) is the period of time, as determined by the NIOSH certification tests, in which adequate breathing gas is supplied. *NIOSH Definition*

Service Life: The period of time that a respirator, filter or sorbent, or other respiratory equipment provides adequate protection to the wearer. *OSHA Definition*

Single-Use Dust or Dust and Mist Respirators: Respirators approved for use against dusts or mists that may cause pneumoconiosis and fibrosis. *NIOSH Definition*

Supplied-Air Respirator (SAR) or Airline Respirator: An atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user. *OSHA Definition*

This Section: This respiratory protection standard. *OSHA Definition*

Tight-Fitting Facepiece: A respiratory inlet covering that forms a complete seal with the face. *OSHA Definition*

User Seal Check: An action conducted by the respirator user to determine if the respirator is properly seated to the face. *OSHA Definition*

Vapor: The gaseous state of a substance that is solid or liquid at temperatures and pressures normally encountered. *NIOSH Definition*

A.B. 1127

INTRODUCED BY Assembly Member Steinberg

FEBRUARY 25, 1999

An act to amend Sections 98.7, 6304.5, 6309, 6400, 6423, 6425, 6428, 6429, 6430, 6432, and 6434 of, and to add Section 6719 to, the Labor Code, relating to employee safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1127, Steinberg. Employee safety: violations.

Under existing law, any person who believes that he or she has been discharged or otherwise discriminated against in violation of the Labor Code under the jurisdiction of the Labor Commissioner may file a complaint with the Division of Labor Standards Enforcement within 30 days after the occurrence of the violation.

This bill would extend from 30 days to 6 months that period of time within which a complaint may be filed with the division.

Existing law provides that the provisions of the California Occupational Safety and Health Act of 1973 (hereafter the act) have no application to, may not be considered in, and may not be admitted into, evidence in any personal injury or wrongful death action arising after January 1, 1972, except as between an employee and his or her employer.

This bill instead would provide that neither the issuance of, or failure to issue, a citation by the Division of Occupational Safety and Health (hereafter the division) has any application to, nor may be considered in, nor may be admitted into, evidence in any personal injury or wrongful death action, except as between an employee and his or her employer. The bill also would provide that Sections 452 and 669 of the Evidence Code would apply to the act and the occupational safety and health standards and orders promulgated under the Labor Code in the same manner as any other statute, ordinance, or regulation.

Existing law provides that if the division secures a complaint from an employee, the employee's representative, or an employer of the employee directly involved in an unsafe place of employment, that his or her employment or place of employment is not safe, the division is required to summarily investigate the complaint as soon as possible, but not later than 3 working days after receipt of a complaint charging a serious violation, and not later than 14 days after receipt of a complaint charging a nonserious violation. Under existing law the division is not required to respond to a complaint if it determines that either the complaint is intended to willfully harass an employer or is without reasonable basis.

This bill would require the division additionally to conduct those investigations if a complaint is received by the employee's representative, including, but not limited to, an attorney, health or safety professional, union representative, or representative of a government agency. The bill would also provide that the division is not required to respond to a complaint if, from the facts stated in the complaint, it determines that the complaint is intended to willfully harass an employer and is without any reasonable basis.

Existing law provides that every employer, and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or other employee is guilty of a misdemeanor if it, among other things, knowingly or negligently violates any standard, order, or special order, or any of certain provisions of law, or part thereof, authorized by the act, the violation of which is deemed to be a serious violation, as defined.

This bill would also make conforming changes to other provisions of law that impose civil and criminal penalties on employers for violation of specified occupational safety and health requirements.

The bill would increase from \$5,000 to \$15,000 the maximum fine that may be imposed for a violation of those provisions. The bill also would increase the length of incarceration and the monetary penalties that may be imposed for a willful or repeated violation of certain employee safety standards that cause death to any employee, or cause permanent or prolonged impairment of the body of any employee. The bill also would authorize a court to impose a fine in an amount less than certain minimums specified in the bill if the court finds that it is in the interest of justice to do so and states its findings and reasons on the record.

Existing law prohibits civil penalties from being assessed against employers that are governmental agencies for violations of certain employee safety standards.

This bill would repeal that prohibition and require civil or administrative penalties against a school district, community college district, California State University, University of California, or other specified educational entities to be deposited into the Workplace Health and Safety Revolving Fund and refunded or used for specified purposes.

Existing law requires the Occupational Safety and Health Standards Board (hereafter the standards board), on or before January 1, 1995, to adopt standards for ergonomics in the workplace designed to minimize the instances of injury from repetitive motion.

This bill would reaffirm the standards board's continuing duty to adopt those standards.

By making certain violations of employee safety standards by employers subject to criminal penalties, the bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 98.7 of the Labor Code is amended to read:

98.7. (a) Any person who believes that he or she has been discharged or otherwise discriminated against in violation of any provision of this code under the jurisdiction of the Labor Commissioner may file a complaint with the division within six months after the occurrence of the violation. The six-month period may be extended for good cause. The complaint shall be investigated by a discrimination complaint investigator in accordance with this section. The Labor Commissioner shall establish procedures for the investigation of discrimination complaints. A summary of the procedures shall be provided to each complainant and respondent at the time of initial contact. The Labor Commissioner shall inform complainants charging a violation of Section 6310 or 6311, at the time of initial contact, of his or her right to file a separate, concurrent complaint with the United States Department of Labor within 30 days after the occurrence of the violation.

(b) Each complaint of unlawful discharge or discrimination shall be assigned to a discrimination complaint investigator who shall prepare and submit a report to the Labor Commissioner based on an investigation of the complaint. The Labor Commissioner may designate the chief deputy or assistant Labor Commissioner or the chief counsel to receive and review the reports. The investigation shall include, where appropriate, interviews with the complainant, respondent, and any witnesses who may have information concerning the alleged violation, and a review of any documents which may be relevant to the disposition of the complaint. The identity of witnesses shall remain confidential unless the identification of the witness becomes necessary to proceed with the investigation or to prosecute an action to enforce a determination. The investigation report submitted to the Labor Commissioner or designee shall include the statements and documents obtained in the investigation, and the findings of the investigator concerning whether a violation occurred.

The Labor Commissioner may hold an investigative hearing whenever the Labor Commissioner determines, after review of the investigation report, that a hearing is necessary to fully establish the facts. In the hearing the investigation report shall be made a part of the record and the complainant and respondent shall have the opportunity to present further evidence. The Labor Commissioner shall issue, serve, and enforce any necessary subpoenas.

(c) If the Labor Commissioner determines a violation has occurred, he or she shall notify the complainant and respondent and direct the respondent to cease and desist from the violation and take such action as is deemed necessary to remedy the violation, including, where appropriate, rehiring or reinstatement, reimbursement of lost wages and interest thereon, payment of reasonable attorney's fees associated with any hearing held by the Labor Commissioner in investigating the complaint, and the posting of notices to employees.

If the respondent does not comply with the order within 10 working days following notification of the Labor Commissioner's determination, the Labor Commissioner shall bring an action promptly in an appropriate court against the respondent. If the Labor Commissioner fails to bring an action in court promptly, the complainant may bring an action against the Labor Commissioner in any appropriate court for a writ of mandate to compel the Labor Commissioner to bring an action in court against the respondent. If the complainant prevails in his or her action for a writ, the court shall award the complainant court costs and reasonable attorney's fees, notwithstanding any other provision of law. Regardless of any delay in bringing an action in court, the Labor Commissioner shall not be divested of jurisdiction. In any such action, the court may permit the claimant to intervene as a party plaintiff to the action and shall have jurisdiction, for cause shown, to restrain the violation and to order all appropriate relief. Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and any other compensation or equitable relief as is appropriate under the circumstances of the case. The Labor Commissioner shall petition the court for appropriate temporary relief or restraining order unless he or she determines good cause exists for not doing so.

(d) If the Labor Commissioner determines no violation has occurred, he or she shall notify the complainant and respondent and shall dismiss the complaint. The Labor Commissioner may direct the complainant to pay reasonable attorney's fees associated with any hearing held by the Labor Commissioner if the Labor Commissioner finds the complaint was frivolous, unreasonable, groundless, and was brought in bad faith. The complainant may, after notification of the Labor Commissioner's determination to dismiss a complaint, bring an action in an appropriate court, which shall have jurisdiction to determine whether a violation occurred, and if so, to restrain the violation and order all appropriate relief to remedy the violation.

Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and such other compensation or equitable relief as is appropriate under the circumstances of the case. When dismissing a complaint, the Labor Commissioner shall advise the complainant of his or her right to bring an action in an appropriate court if he or she disagrees with the determination of the Labor Commissioner, and in

the case of an alleged violation of Section 6310 or 6311, to file a complaint against the state program with the United States Department of Labor.

(e) The Labor Commissioner shall notify the complainant and respondent of his or her determination under subdivision (c) or (d), not later than 60 days after the filing of the complaint.

Determinations by the Labor Commissioner under subdivision (c) or (d) may be appealed by the complainant or respondent to the Director of Industrial Relations within 10 days following notification of the determination. The appeal shall set forth specifically and in full detail the grounds upon which the appealing party considers the Labor Commissioner's determination to be unjust or unlawful, and every issue to be considered by the director. The director may consider any issue relating to the initial determination and may modify, affirm, or reverse the Labor Commissioner's determination. The director's determination shall be the determination of the Labor Commissioner. The director shall notify the complainant and respondent of his or her determination within 10 days of receipt of the appeal.

(f) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other provisions of law.

SEC. 2. Section 6304.5 of the Labor Code is amended to read:

6304.5. It is the intent of the Legislature that the provisions of this division, and the occupational safety and health standards and orders promulgated under this code, are applicable to proceedings against employers for the exclusive purpose of maintaining and enforcing employee safety.

Neither the issuance of, or failure to issue, a citation by the division shall have any application to, nor be considered in, nor be admissible into, evidence in any personal injury or wrongful death action, except as between an employee and his or her own employer.

Sections 452 and 669 of the Evidence Code shall apply to this division and to occupational safety and health standards adopted under this division in the same manner as any other statute, ordinance, or regulation. The testimony of employees of the division shall not be admissible as expert opinion or with respect to the application of occupational safety and health standards. It is the intent of the Legislature that the amendments to this section enacted in the 1999-2000 Regular Session shall not abrogate the holding in *Brock v. State of California* (1978) 81 Cal.App.3d 752.

SEC. 3. Section 6309 of the Labor Code is amended to read:

6309. If the division learns or has reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee, it may, of its own motion, or upon complaint, summarily investigate the same with or without notice or hearings. However, if the division secures a complaint from an employee, the employee's representative, including, but not limited to, an attorney, health or safety professional, union representative; or representative of a government agency, or an employer of an employee directly involved in an unsafe place of employment, that his or her employment or place of employment is not safe, it shall, with or without notice or hearing, summarily investigate the same as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation. The division shall attempt to determine the period of time in the future that the complainant believes the unsafe condition may continue to exist, and shall allocate inspection resources so as to respond first to those situations in which time is of the essence. For purposes of this section, a complaint shall be deemed to allege a serious violation if the division determines that the complaint charges that there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in a place of employment. When a complaint charging a serious violation is received from a state or local prosecutor, the division shall summarily investigate the employment or place of employment within 24 hours of receipt of the complaint. All other complaints shall be deemed to allege nonserious violations. The division may enter and serve any necessary order relative thereto. The division is not required to respond to any complaint within this period where, from the facts stated in the complaint, it determines that the complaint is intended to willfully harass an employer or is without any reasonable basis.

The division shall keep complete and accurate records of any complaints, whether verbal or written, and shall inform the complainant, whenever his or her identity is known, of any action taken by the division in regard to the subject matter of the complaint, and the reasons for the action. The records of the division shall include the dates on which any action was taken on the complaint, or the reasons for not taking any action on the complaint. The division shall, pursuant to authorized regulations, conduct an informal review of any refusal by a representative of the division to issue a citation with respect to any alleged violation.

The division shall furnish the employee or the representative of employees requesting the review a written statement of the reasons for the division's final disposition of the case.

The name of any person who submits to the division a complaint regarding the unsafeness of an employment or place of employment shall be kept confidential by the division, unless that person requests otherwise.

The requirements of this section shall not relieve the division of its requirement to inspect and assure that all places of employment are safe and healthful for employees. The division shall maintain the capability to receive and act upon complaints at all times.

SEC. 4. Section 6400 of the Labor Code is amended to read:

6400. (a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein.

(b) On multiemployer worksites, both construction and nonconstruction, citations may be issued only to the following categories of employers when the division has evidence that an employee was exposed to a hazard in violation of any requirement enforceable by the division:

(1) The employer whose employees were exposed to the hazard (the exposing employer).

(2) The employer who actually created the hazard (the creating employer).

(3) The employer who was responsible, by contract or through actual practice, for safety and health conditions on the worksite, which is the employer who had the authority for ensuring that the hazardous condition is corrected (the controlling employer).

(4) The employer who had the responsibility for actually correcting the hazard (the correcting employer).

The employers listed in paragraphs (2) to (4), inclusive, of this subdivision may be cited regardless of whether their own employees were exposed to the hazard.

(c) It is the intent of the Legislature, in adding subdivision (b) to this section, to codify existing regulations with respect to the responsibility of employers at multiemployer worksites. Subdivision (b) of this section is declaratory of existing law and shall not be construed or interpreted as creating a new law or as modifying or changing an existing law.

SEC. 5. Section 6423 of the Labor Code is amended to read:

6423. Except where another penalty is specifically provided, every employer and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or of any other employee, who does any of the following is guilty of a misdemeanor:

(a) Knowingly or negligently violates any standard, order, or special order, or any provision of this division, or of any part thereof in, or authorized by, this part the violation of which is deemed to be a serious violation pursuant to Section 6432.

(b) Repeatedly violates any standard, order, or special order, or provision of this division, or any part thereof in, or authorized by, this part, which repeated violation creates a real and apparent hazard to employees.

(c) Fails or refuses to comply, after notification and expiration of any abatement period, with any such standard, order, special order, or provision of this division, or any part thereof, which failure or refusal creates a real and apparent hazard to employees.

(d) Directly or indirectly, knowingly induces another to commit any of the acts in subdivisions (a), (b), or (c). Any violation of subdivision (a) is punishable by imprisonment in the county jail for a period not to exceed six months, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

Any violation of the provisions of subdivision (b), (c), or (d) of this section is punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding fifteen thousand dollars (\$15,000), or by both that imprisonment and fine.

If the defendant is a corporation or a limited liability company, the fine may not exceed one hundred fifty thousand dollars (\$150,000).

(e) In determining the amount of fine to impose under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require.

SEC. 6. Section 6425 of the Labor Code is amended to read:

6425. (a) Any employer and any employee having direction, management, control, or custody of any employment, place of employment, or of any other employee, who willfully violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, and that violation caused death to any employee, or caused permanent or prolonged impairment of the body of any employee, is guilty of a public offense punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding one hundred thousand dollars (\$100,000), or by both that imprisonment and fine; or by imprisonment in the state prison for 16 months, or two or three years, or by a fine of not more than two hundred fifty thousand dollars (\$250,000), or by both that imprisonment and fine; and in either case, if the defendant is a corporation or a limited liability company, the fine may not exceed one million five hundred thousand dollars (\$1,500,000).

(b) If the conviction is for a violation committed within seven years after a conviction under subdivision (b), (c), or (d) of Section 6423 or subdivision (c) of Section 6430, punishment shall be by imprisonment in state prison for a term of 16 months, two, or three years, or by a fine not exceeding two hundred fifty thousand dollars (\$250,000), or by both that fine and imprisonment, but if the defendant is a corporation or limited liability company, the fine may not be less than five hundred thousand dollars (\$500,000) or more than two million five hundred thousand dollars (\$2,500,000).

(c) If the conviction is for a violation committed within seven years after a first conviction of the defendant for any crime involving a violation of subdivision (a), punishment shall be by imprisonment in the state prison for two, three, or four years, or by a fine not exceeding two hundred fifty thousand dollars (\$250,000), or by both that fine and imprisonment, but if the defendant is a corporation or a limited liability company, the fine shall not be less than one million dollars (\$1,000,000) but may not exceed three million five hundred thousand dollars (\$3,500,000).

(d) In determining the amount of fine to be imposed under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior

history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require.

(e) As used in this section, "willfully" has the same definition as it has in Section 7 of the Penal Code. This subdivision is intended to be a codification of existing law.

(f) This section does not prohibit a prosecution under Section 192 of the Penal Code.

SEC. 7. Section 6428 of the Labor Code is amended to read:

6428. Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, if that violation is a serious violation, shall be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation. Employers who do not have an operative injury prevention program shall receive no adjustment for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

SEC. 8. Section 6429 of the Labor Code is amended to read:

6429. Any employer who willfully or repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, may be assessed a civil penalty of not more than seventy thousand dollars (\$70,000) for each violation, but in no case less than five thousand dollars (\$5,000) for each willful violation.

6430. (b) Any employer who repeatedly violates any occupational safety or health standard, order, or special order, or of Section 25910 of the Health and Safety Code, shall not receive any adjustment of a penalty assessed pursuant to this section on the basis of the regulations promulgated pursuant to subdivision (c) of Section 6319 pertaining to the good faith of the employer or the history of previous violations of the employer.

(c) The division shall preserve and maintain records of its investigations and inspections and citations for a period of not less than seven years.

SEC. 9. Section 6430 of the Labor Code is amended to read:

6430. (a) Any employer who fails to correct a violation of any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, within the period permitted for its correction shall be assessed a civil penalty of not more than fifteen thousand dollars (\$15,000) for each day during which the failure or violation continues.

(b) Notwithstanding subdivision (a), for any employer who submits a signed statement affirming compliance with the abatement terms pursuant to Section 6320, and is found upon a reinspection not to have abated the violation, any adjustment to the civil penalty based on abatement shall be rescinded and the additional civil penalty assessed for failure to abate shall not be adjusted for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

(c) Notwithstanding subdivision (a), any employer who submits a signed statement affirming compliance with the abatement terms pursuant to subdivision (b) of Section 6320, and is found not to have abated the violation, is guilty of a public offense punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding thirty thousand dollars (\$30,000), or by both that fine and imprisonment; but if the defendant is a corporation or a limited liability company the fine shall not exceed three hundred thousand dollars (\$300,000). In determining the amount of the fine to be imposed under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require. Nothing in this section shall be construed to prevent prosecution under any law that may apply.

SEC. 10. Section 6432 of the Labor Code is amended to read:

6431. (a) As used in this part, a "serious violation" shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a violation, including, but not limited to, circumstances where there is a substantial probability that either of the following could result in death or great bodily injury:

(1) A serious exposure exceeding an established permissible exposure limit.

(2) The existence of one or more practices, means, methods, operations, or processes which have been adopted or are in use, in the place of employment.

(b) Notwithstanding subdivision (a), a serious violation shall not be deemed to exist if the employer can demonstrate that it did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(c) As used in this section, "substantial probability" refers not to the probability that an accident or exposure will occur as a result of the violation, but rather to the probability that death or serious physical harm will result assuming an accident or exposure occurs as a result of the violation.

SEC. 11. Section 6434 of the Labor Code is amended to read:

6434. (a) Any civil or administrative penalty assessed pursuant to this chapter against a school district, county board of education, county superintendent of schools, charter school, community college district, California State University, University of California, or joint powers agency performing education functions shall be deposited with the Workplace Health and Safety Revolving Fund established pursuant to Section 78.

(b) Any school district, county board of education, county superintendent of schools or charter school community college district, California State University, University of California, or joint powers agency performing education

functions may apply for a refund of their civil penalty, with interest, if all conditions previously cited have been abated, they have abated any other outstanding citation, and if they have not been cited by the division for a serious violation at the same school within two years of the date of the original violation. Funds not applied for within two years and six months of the time of the original violation shall be expended as provided for in Section 78 to assist schools in establishing effective occupational injury and illness prevention programs.

SEC. 12. Section 6719 is added to the Labor Code, to read:

6719. The Legislature reaffirms its concern over the prevalence of repetitive motion injuries in the workplace and reaffirms the Occupational Safety and Health Standards Board's continuing duty to carry out Section 6357.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Title 8 CCR, Section 5144

5144. Respiratory Protection.

(a) Permissible practice.

(1) In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective shall be to prevent atmospheric contamination. This shall be accomplished as far as feasible by accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials). When effective engineering controls are not feasible, or while they are being instituted, appropriate respirators shall be used pursuant to this section.

(2) Respirators shall be provided by the employer when such equipment is necessary to protect the health of the employee. The employer shall provide the respirators which are applicable and suitable for the purpose intended. The employer shall be responsible for the establishment and maintenance of a respiratory protection program which shall include the requirements outlined in subsection (c).

(b) Definitions. The following definitions are important terms used in the respiratory protection standard in this section.

Air-purifying respirator means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

Assigned protection factor (APF) [Reserved]

Atmosphere-supplying respirator means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

Canister or cartridge means a container with a filter, sorbent, or catalyst, or combination of these items, which removes specific contaminants from the air passed through the container.

Demand respirator means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

Emergency situation means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of an airborne contaminant.

Employee exposure means exposure to a concentration of an airborne contaminant that would occur if the employee were not using respiratory protection.

End-of-service-life indicator (ESLI) means a system that warns the respirator user of the approach of the end of adequate respiratory protection, for example, that the sorbent is approaching saturation or is no longer effective.

Escape-only respirator means a respirator intended to be used only for emergency exit.

Filter or air purifying element means a component used in respirators to remove solid or liquid aerosols from the inspired air.

Filtering facepiece (dust mask) means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium.

Fit factor means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

Fit test means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual. (See also Qualitative fit test QLFT and Quantitative fit test QNFT.)

Helmet means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

High efficiency particulate air (HEPA) filter means a filter that is at least 99.97% efficient in removing monodisperse particles of 0.3 micrometers in diameter. The equivalent NIOSH 42 CFR 84 particulate filters are the N100, R100, and P100 filters.

Hood means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

Immediately dangerous to life or health (IDLH) means an atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.

Interior structural firefighting means the physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. (See Article 10.1)

Loose-fitting facepiece means a respiratory inlet covering that is designed to form a partial seal with the face.

Maximum use concentration (MUC) [Reserved]

Negative pressure respirator (tight fitting) means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

Oxygen deficient atmosphere means an atmosphere with an oxygen content below 19.5% by volume.

Physician or other licensed health care professional (PLHCP) means an individual whose legally permitted scope or practice (i.e., license, registration, or certification) allows him or her to independently provide, or be delegated the responsibility to provide, some or all of the health care services required by subsection (e).

Positive pressure respirator means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

Powered air-purifying respirator (PAPR) means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

Pressure demand respirator means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

Qualitative fit test (QLFT) means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

Quantitative fit test (QNFT) means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

Respiratory inlet covering means that portion of a respirator that forms the protective barrier between the user's respiratory tract and an air-purifying device or breathing air source, or both. It may be a facepiece, helmet, hood, suit, or a mouthpiece respirator with nose clamp.

Self-contained breathing apparatus (SCBA) means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

Service life means the period of time that a respirator, filter or sorbent, or other respiratory equipment provides adequate protection to the wearer.

Supplied-air respirator (SAR) or airline respirator means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

Tight-fitting facepiece means a respiratory inlet covering that forms a complete seal with the face.

User seal check means an action conducted by the respirator user to determine if the respirator is properly seated to the face.

(c) Respiratory protection program. This subsection requires the employer to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator. In addition, certain program elements may

be required for voluntary use to prevent potential hazards associated with the use of the respirator. The Small Entity Compliance Guide contains criteria for the selection of a program administrator and a sample program that meets the requirements of this subsection. Copies of the Small Entity Compliance Guide will be available from the Occupational Safety and Health Administration's Office of Publications, Room N 3101, 200 Constitution Avenue, NW, Washington, DC, 20210 (202-219-4667).

(1) In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions, as applicable:

- (A) Procedures for selecting respirators for use in the workplace;
- (B) Medical evaluations of employees required to use respirators;
- (C) Fit testing procedures for tight-fitting respirators;
- (D) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;
- (E) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;
- (F) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;
- (G) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations;
- (H) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and
- (I) Procedures for regularly evaluating the effectiveness of the program.

(2) Where respirator use is not required:

(A) An employer may provide respirators at the request of employees or permit employees to use their own respirators, if the employer determines that such respirator use will not in itself create a hazard. If the employer determines that any voluntary respirator use is permissible, the employer shall provide the respirator users with the information contained in Appendix D to this section ("Information for Employees Using Respirators When Not Required Under the Standard"); and

(B) In addition, the employer must establish and implement those elements of a written respiratory protection program necessary to ensure that any employee using a respirator voluntarily is medically able to use that respirator, and that the respirator is cleaned, stored, and maintained so that its use does not present a health hazard to the user. Exception: Employers are not required to include in a written respiratory protection program those employees whose only use of respirators involves the voluntary use of filtering facepieces (dust masks).

(3) The employer shall designate a program administrator who is qualified by appropriate training or experience that is commensurate with the complexity of the program to administer or oversee the respiratory protection program and conduct the required evaluations of program effectiveness.

(4) The employer shall provide respirators, training, and medical evaluations at no cost to the employee.

(d) Selection of respirators. This subsection requires the employer to evaluate respiratory hazard(s) in the workplace, identify relevant workplace and user factors, and base respirator selection on these factors. The subsection also specifies appropriately protective respirators for use in IDLH atmospheres, and limits the selection and use of air-purifying respirators.

(1) General requirements.

(A) The employer shall select and provide an appropriate respirator based on the respiratory hazard(s) to which the worker is exposed and workplace and user factors that affect respirator performance and reliability.

(B) The employer shall select a NIOSH-certified respirator. The respirator shall be used in compliance with the conditions of its certification.

(C) The employer shall identify and evaluate the respiratory hazard(s) in the workplace; this evaluation shall include a reasonable estimate of employee exposures to respiratory hazard(s) and an identification of the contaminant's chemical state and physical form. Where the employer cannot identify or reasonably estimate the employee exposure, the employer shall consider the atmosphere to be IDLH.

(D) The employer shall select respirators from a sufficient number of respirator models and sizes so that the respirator is acceptable to, and correctly fits, the user.

(2) Respirators for IDLH atmospheres.

(A) The employer shall provide the following respirators for employee use in IDLH atmospheres:

1. A full facepiece pressure demand SCBA certified by NIOSH for a minimum service life of thirty minutes, or
2. A combination full facepiece pressure demand supplied-air respirator (SAR) with auxiliary self-contained air supply.

(B) Respirators provided only for escape from IDLH atmospheres shall be NIOSH-certified for escape from the atmosphere in which they will be used.

(C) All oxygen-deficient atmospheres shall be considered IDLH.

Exception: If the employer demonstrates that, under all foreseeable conditions, the oxygen concentration can be maintained within the ranges specified in Table II (i.e., for the altitudes set out in the table), then any atmosphere-supplying respirator may be used.

(3) Respirators for atmospheres that are not IDLH.

(A) The employer shall provide a respirator that is adequate to protect the health of the employee and ensure compliance with all other OSHA statutory and regulatory requirements, under routine and reasonably foreseeable emergency situations.

1. Assigned Protection Factors (APFs) [Reserved]
2. Maximum Use Concentration (MUC) [Reserved]

(B) The respirator selected shall be appropriate for the chemical state and physical form of the contaminant.

(C) For protection against gases and vapors, the employer shall provide:

1. An atmosphere-supplying respirator, or
2. An air-purifying respirator, provided that:
 - a. The respirator is equipped with an end-of-service-life indicator (ESLI) certified by NIOSH for the contaminant; or
 - b. If there is no ESLI appropriate for conditions in the employer's workplace, the employer implements a change schedule for canisters and cartridges that is based on objective information or data that will ensure that canisters and cartridges are changed before the end of their service life. The employer shall describe in the respirator program the information and data relied upon and the basis for the canister and cartridge change schedule and the basis for reliance on the data.

(D) For protection against particulates, the employer shall provide:

1. An atmosphere-supplying respirator; or
2. An air-purifying respirator equipped with a filter certified by NIOSH under 30 CFR part 11 as a high efficiency particulate air (HEPA) filter, or an air-purifying respirator equipped with a filter certified for particulates by NIOSH under 42 CFR part 84; or

3. For contaminants consisting primarily of particles with mass median aerodynamic diameters (MMAD) of at least 2 micrometers, an air-purifying respirator equipped with any filter certified for particulates by NIOSH.

Table I--Assigned Protection Factors [Reserved]

Table II

Altitude (ft.) Oxygen deficient Atmospheres (% O₂) for which the employer may rely on atmosphere-supplying respirators

Less than 3,001	16.0-19.5
3,001-4,000.	16.4-19.5
4,001-5,000	17.1-19.5
5,001-6,000	17.8-19.5
6,001-7,000	18.5-19.5
7,001-8,000 ¹	19.3-19.5

¹Above 8,000 feet the exception does not apply. Oxygen-enriched breathing air must be supplied above 14,000 feet.

(e) Medical evaluation. Using a respirator may place a physiological burden on employees that varies with the type of respirator worn, the job and workplace conditions in which the respirator is used, and the medical status of the employee. Accordingly, this subsection specifies the minimum requirements for medical evaluation that employers must implement to determine the employee's ability to use a respirator.

(1) General. The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator. (2) Medical evaluation procedures.

(A) The employer shall identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations using a medical questionnaire or an initial medical examination that obtains the same information as the medical questionnaire.

(B) The medical evaluation shall obtain the information requested by the questionnaire in Sections 1 and 2, Part A of Appendix C.

(3) Follow-up medical examination.

(A) The employer shall ensure that a follow-up medical examination is provided for an employee who gives a positive response to any question among questions 1 through 8 in Section 2, Part A of Appendix C or whose initial medical examination demonstrates the need for a follow-up medical examination.

(B) The follow-up medical examination shall include any medical tests, consultations, or diagnostic procedures that the PLHCP deems necessary to make a final determination.

(4) Administration of the medical questionnaire and examinations.

(A) The medical questionnaire and examinations shall be administered confidentially during the employee's normal working hours or at a time and place convenient to the employee. The medical questionnaire shall be administered in a manner that ensures that the employee understands its content.

(B) The employer shall provide the employee with an opportunity to discuss the questionnaire and examination results with the PLHCP.

(5) Supplemental information for the PLHCP.

(A) The following information must be provided to the PLHCP before the PLHCP makes a recommendation concerning an employee's ability to use a respirator:

1. The type and weight of the respirator to be used by the employee;
2. The duration and frequency of respirator use (including use for rescue and escape);

3. The expected physical work effort;
4. Additional protective clothing and equipment to be worn; and
5. Temperature and humidity extremes that may be encountered.

(B) Any supplemental information provided previously to the PLHCP regarding an employee need not be provided for a subsequent medical evaluation if the information and the PLHCP remain the same.

(C) The employer shall provide the PLHCP with a copy of the written respiratory protection program and a copy of this section.

Note to Subsection (e)(5)(C): When the employer replaces a PLHCP, the employer must ensure that the new PLHCP obtains this information, either by providing the documents directly to the PLHCP or having the documents transferred from the former PLHCP to the new PLHCP. However, OSHA does not expect employers to have employees medically reevaluated solely because a new PLHCP has been selected.

(6) Medical determination. In determining the employee's ability to use a respirator, the employer shall:

(A) Obtain a written recommendation regarding the employee's ability to use the respirator from the PLHCP. The recommendation shall provide only the following information:

1. Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator;
2. The need, if any, for follow-up medical evaluations; and
3. A statement that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.

(B) If the respirator is a negative pressure respirator and the PLHCP finds a medical condition that may place the employee's health at increased risk if the respirator is used, the employer shall provide a PAPR if the PLHCP's medical evaluation finds that the employee can use such a respirator; if a subsequent medical evaluation finds that the employee is medically able to use a negative pressure respirator, then the employer is no longer required to provide a PAPR.

(7) Additional medical evaluations. At a minimum, the employer shall provide additional medical evaluations that comply with the requirements of this section if:

(A) An employee reports medical signs or symptoms that are related to ability to use a respirator;

(B) A PLHCP, supervisor, or the respirator program administrator informs the employer that an employee needs to be reevaluated;

(C) Information from the respiratory protection program, including observations made during fit testing and program evaluation, indicates a need for employee reevaluation; or

(D) A change occurs in workplace conditions (e.g., physical work effort, protective clothing, temperature) that may result in a substantial increase in the physiological burden placed on an employee.

(f) Fit testing. This subsection requires that, before an employee may be required to use any respirator with a negative or positive pressure tight-fitting facepiece, the employee must be fit tested with the same make, model, style, and size of respirator that will be used. This subsection specifies the kinds of fit tests allowed, the procedures for conducting them, and how the results of the fit tests must be used.

(1) The employer shall ensure that employees using a tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT) as stated in this subsection.

(2) The employer shall ensure that an employee using a tight-fitting facepiece respirator is fit tested prior to initial use of the respirator, whenever a different respirator facepiece (size, style, model or make) is used, and at least annually thereafter.

(3) The employer shall conduct an additional fit test whenever the employee reports, or the employer, PLHCP, supervisor, or program administrator makes visual observations of, changes in the employee's physical condition that

could affect respirator fit. Such conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight.

(4) If after passing a QLFT or QNFT, the employee subsequently notifies the employer, program administrator, supervisor, or PLHCP that the fit of the respirator is unacceptable, the employee shall be given a reasonable opportunity to select a different respirator facepiece and to be retested.

(5) The fit test shall be administered using an OSHA-accepted QLFT or QNFT protocol. The OSHA-accepted QLFT and QNFT protocols and procedures are contained in Appendix A.

(6) QLFT may only be used to fit test negative pressure air-purifying respirators that must achieve a fit factor of 100 or less.

(7) If the fit factor, as determined through an OSHA-accepted QNFT protocol, is equal to or greater than 100 for tight-fitting half facepieces, or equal to or greater than 500 for tight-fitting full facepieces, the QNFT has been passed with that respirator.

(8) Fit testing of tight-fitting atmosphere-supplying respirators and tight-fitting powered air-purifying respirators shall be accomplished by performing quantitative or qualitative fit testing in the negative pressure mode, regardless of the mode of operation (negative or positive pressure) that is used for respiratory protection.

(A) Qualitative fit testing of these respirators shall be accomplished by temporarily converting the respirator user's actual facepiece into a negative pressure respirator with appropriate filters, or by using an identical negative pressure air-purifying respirator facepiece with the same sealing surfaces as a surrogate for the atmosphere-supplying or powered air-purifying respirator facepiece.

(B) Quantitative fit testing of these respirators shall be accomplished by modifying the facepiece to allow sampling inside the facepiece in the breathing zone of the user, midway between the nose and mouth. This requirement shall be accomplished by installing a permanent sampling probe onto a surrogate facepiece, or by using a sampling adapter designed to temporarily provide a means of sampling air from inside the facepiece.

(C) Any modifications to the respirator facepiece for fit testing shall be completely removed, and the facepiece restored to NIOSH-approved configuration, before that facepiece can be used in the workplace.

(g) Use of respirators. This subsection requires employers to establish and implement procedures for the proper use of respirators. These requirements include prohibiting conditions that may result in facepiece seal leakage, preventing employees from removing respirators in hazardous environments, taking actions to ensure continued effective respirator operation throughout the work shift, and establishing procedures for the use of respirators in IDLH atmospheres or in interior structural firefighting situations.

(1) Facepiece seal protection.

(A) The employer shall not permit respirators with tight-fitting facepieces to be worn by employees who have:

1. Facial hair that comes between the sealing surface of the facepiece and the face or that interferes with valve function; or

2. Any condition that interferes with the face-to-facepiece seal or valve function.

(B) If an employee wears corrective glasses or goggles or other personal protective equipment, the employer shall ensure that such equipment is worn in a manner that does not interfere with the seal of the facepiece to the face of the user.

(C) For all tight-fitting respirators, the employer shall ensure that employees perform a user seal check each time they put on the respirator using the procedures in Appendix B-1 or procedures recommended by the respirator manufacturer that the employer demonstrates are as effective as those in Appendix B-1.

(2) Continuing respirator effectiveness.

(A) Appropriate surveillance shall be maintained of work area conditions and degree of employee exposure or stress. When there is a change in work area conditions or degree of employee exposure or stress that may affect respirator effectiveness, the employer shall reevaluate the continued effectiveness of the respirator.

(B) The employer shall ensure that employees leave the respirator use area:

1. To wash their faces and respirator facepieces as necessary to prevent eye or skin irritation associated with respirator use; or
2. If they detect vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece; or
3. To replace the respirator or the filter, cartridge, or canister elements.

(C) If the employee detects vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece, the employer must replace or repair the respirator before allowing the employee to return to the work area.

(3) Procedures for IDLH atmospheres. For all IDLH atmospheres, the employer shall ensure that:

(A) One employee or, when needed, more than one employee is located outside the IDLH atmosphere;

(B) Visual, voice, or signal line communication is maintained between the employee(s) in the IDLH atmosphere and the employee(s) located outside the IDLH atmosphere;

(C) The employee(s) located outside the IDLH atmosphere are trained and equipped to provide effective emergency rescue; (D) The employer or designee is notified before the employee(s) located outside the IDLH atmosphere enter the IDLH atmosphere to provide emergency rescue;

(E) The employer or designee authorized to do so by the employer, once notified, provides necessary assistance appropriate to the situation;

(F) Employee(s) located outside the IDLH atmospheres are equipped with:

1. Pressure demand or other positive pressure SCBAs, or a pressure demand or other positive pressure supplied-air respirator with auxiliary SBA; and either
2. Appropriate retrieval equipment for removing the employee(s) who enter(s) these hazardous atmospheres where retrieval equipment would contribute to the rescue of the employee(s) and would not increase the overall risk resulting from entry; or
3. Equivalent means for rescue where retrieval equipment is not required under subsection (g)(3)(F)2.

(4) Procedures for interior structural firefighting. In addition to the requirements set forth under subsection (g)(3), in interior structural fires, the employer shall ensure that:

(A) At least two employees enter the IDLH atmosphere and remain in visual or voice contact with one another at all times;

(B) At least two employees are located outside the IDLH atmosphere; and

(C) All employees engaged in interior structural firefighting use SCBAs.

Note 1 to subsection (g): One of the two individuals located outside the IDLH atmosphere may be assigned to an additional role, such as incident commander in charge of the emergency or safety officer, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at the incident.

Note 2 to subsection (g): Nothing in this section is meant to preclude firefighters from performing emergency rescue activities before an entire team has assembled.

(h) Maintenance and care of respirators. This subsection requires the employer to provide for the cleaning and disinfecting, storage, inspection, and repair of respirators used by employees.

(1) Cleaning and disinfecting. The employer shall provide each respirator user with a respirator that is clean, sanitary, and in good working order. The employer shall ensure that respirators are cleaned and disinfected using the procedures in Appendix B-2, or

procedures recommended by the respirator manufacturer, provided that such procedures are of equivalent effectiveness. The respirators shall be cleaned and disinfected at the following intervals:

(A) Respirators issued for the exclusive use of an employee shall be cleaned and disinfected as often as necessary to be maintained in a sanitary condition;

(B) Respirators issued to more than one employee shall be cleaned and disinfected before being worn by different individuals;

(C) Respirators maintained for emergency use shall be cleaned and disinfected after each use; and

(D) Respirators used in fit testing and training shall be cleaned and disinfected after each use.

(2) Storage. The employer shall ensure that respirators are stored as follows:

(A) All respirators shall be stored to protect them from damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals, and they shall be packed or stored to prevent deformation of the facepiece and exhalation valve.

(B) In addition to the requirements of subsection (h)(2)(A), emergency respirators shall be:

1. Kept accessible to the work area;
2. Stored in compartments or in covers that are clearly marked as containing emergency respirators; and
3. Stored in accordance with any applicable manufacturer instructions.

(3) Inspection.

(A) The employer shall ensure that respirators are inspected as follows:

1. All respirators used in routine situations shall be inspected before each use and during cleaning;
2. All respirators maintained for use in emergency situations shall be inspected at least monthly and in accordance with the manufacturer's recommendations, and shall be checked for proper function before and after each use; and
3. Emergency escape-only respirators shall be inspected before being carried into the workplace for use.

(B) The employer shall ensure that respirator inspections include the following:

1. A check of respirator function, tightness of connections, and the condition of the various parts including, but not limited to, the facepiece, head straps, valves, connecting tube, and cartridges, canisters or filters; and
2. A check of elastomeric parts for pliability and signs of deterioration.

(C) In addition to the requirements of subsections (h)(3)(A) and (B), self-contained breathing apparatus shall be inspected monthly. Air and oxygen cylinders shall be maintained in a fully charged state and shall be recharged when the pressure falls to 90% of the manufacturer's recommended pressure level. The employer shall determine that the regulator and warning devices function properly.

(D) For respirators maintained for emergency use, the employer shall:

1. Certify the respirator by documenting the date the inspection was performed, the name (or signature) of the person who made the inspection, the findings, required remedial action, and a serial number or other means of identifying the inspected respirator; and
2. Provide this information on a tag or label that is attached to the storage compartment for the respirator, is kept with the respirator, or is included in inspection reports stored as paper or electronic files. This information shall be maintained until replaced following a subsequent certification.

(4) Repairs. The employer shall ensure that respirators that fail an inspection or are otherwise found to be defective are removed from service, and are discarded or repaired or adjusted in accordance with the following procedures:

- (A) Repairs of adjustments to respirators are to be made only by persons appropriately trained to perform such operations and shall use only the respirator manufacturer's NIOSH-approved parts designed for the respirator;
- (B) Repairs shall be made according to the manufacturer's recommendations and specifications for the type and extent of repairs to be performed; and
- (C) Reducing and admission valves, regulators, and alarms shall be adjusted or repaired only by the manufacturer or a technician trained by the manufacturer.
- (i) Breathing air quality and use. This subsection requires the employer to provide employees using atmosphere-supplying respirators (supplied-air and SCBA) with breathing gases of high purity.
- (1) The employer shall ensure that compressed air, compressed oxygen, liquid air, and liquid oxygen used for respiration accords with the following specifications:
- (A) Compressed and liquid oxygen shall meet the United States Pharmacopoeia requirements for medical or breathing oxygen; and
- (B) Compressed breathing air shall meet at least the requirements for Grade D breathing air described in ANSI/Compressed Gas Association Commodity Specification for Air, G-7.1-1989, to include:
1. Oxygen content (v/v) of 19.5-23.5%;
 2. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
 3. Carbon monoxide (CO) content of 10 ppm or less;
 4. Carbon dioxide content of 1,000 ppm or less; and
 5. Lack of noticeable odor.
- (2) The employer shall ensure that compressed oxygen is not used in atmosphere-supplying respirators that have previously used compressed air.
- (3) The employer shall ensure that oxygen concentrations greater than 23.5% are used only in equipment designed for oxygen service or distribution.
- (4) The employer shall ensure that cylinders used to supply breathing air to respirators meet the following requirements:
- (A) Cylinders are tested and maintained as prescribed in the Shipping Container Specification Regulations of the Department of Transportation (49 CFR 173 and part 178);
- (B) Cylinders of purchased breathing air have a certificate of analysis from the supplier that the breathing air meets the requirements for Grade D breathing air; and
- (C) The moisture content in the cylinder does not exceed a dew point of -50 deg. F (-45.6 deg. C) at 1 atmosphere pressure.
- (5) The employer shall ensure that compressors used to supply breathing air to respirators are constructed and situated so as to:
- (A) Prevent entry of contaminated air into the air-supply system;
- (B) Minimize moisture content so that the dew point at 1 atmosphere pressure is 10 degrees F (-5.56 deg. C) below the ambient temperature;
- (C) Have suitable in-line air-purifying sorbent beds and filters to further ensure breathing air quality. Sorbent beds and filters shall be maintained and replaced or refurbished periodically following the manufacturer's instructions.
- (D) Have a tag containing the most recent change date and the signature of the person authorized by the employer to perform the change. The tag shall be maintained at the compressor.

(6) For compressors that are not oil-lubricated, the employer shall ensure that carbon monoxide levels in the breathing air do not exceed 10 ppm.

(7) For oil lubricated compressors, the employer shall use a high-temperature or carbon monoxide alarm, or both, to monitor carbon monoxide levels. If only high-temperature alarms are used, the air supply shall be monitored at intervals sufficient to prevent carbon monoxide in the breathing air from exceeding 10 ppm.

(8) The employer shall ensure that breathing air couplings are incompatible with outlets for nonrespirable worksite air or other gas systems. No asphyxiating substance shall be introduced into breathing air lines.

(9) The employer shall use breathing gas containers marked in accordance with the NIOSH respirator certification standard, 42 CFR part 84.

(j) Identification of filters, cartridges, and canisters. The employer shall ensure that all filters, cartridges and canisters used in the workplace are labeled and color coded with the NIOSH approval label and that the label is not removed and remains legible.

(k) Training and information. This subsection requires the employer to provide effective training to employees who are required to use respirators. The training must be comprehensive, understandable, and recur annually, and more often if necessary. This subsection also requires the employer to provide the basic information on respirators in Appendix D to employees who wear respirators when not required by this section or by the employer to do so.

(1) The employer shall ensure that each employee can demonstrate knowledge of at least the following:

(A) Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator;

(B) What the limitations and capabilities of the respirator are;

(C) How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;

(D) How to inspect, put on and remove, use, and check the seals of the respirator;

(E) What the procedures are for maintenance and storage of the respirator;

(F) How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and

(G) The general requirements of this section.

(2) The training shall be conducted in a manner that is understandable to the employee.

(3) The employer shall provide the training prior to requiring the employee to use a respirator in the workplace.

(4) An employer who is able to demonstrate that a new employee has received training within the last 12 months that addresses the elements specified in subsection (k)(1)(A) through (G) is not required to repeat such training provided that, as required by subsection (k)(1), the employee can demonstrate knowledge of those element(s). Previous training not repeated initially by the employer must be provided no later than 12 months from the date of the previous training.

(5) Retraining shall be administered annually, and when the following situations occur:

(A) Changes in the workplace or the type of respirator render previous training obsolete;

(B) Inadequacies in the employee's knowledge or use of the respirator indicate that the employee has not retained the requisite understanding or skill; or

(C) Any other situation arises in which retraining appears necessary to ensure safe respirator use.

(6) The basic advisory information on respirators, as presented in Appendix D, shall be provided by the employer in any written or oral format, to employees who wear respirators when such use is not required by this section or by the employer.

(l) Program evaluation. This section requires the employer to conduct evaluations of the workplace to ensure that the written respiratory protection program is being properly implemented, and to consult employees to ensure that they are using the respirators properly.

(1) The employer shall conduct evaluations of the workplace as necessary to ensure that the provisions of the current written program are being effectively implemented and that it continues to be effective.

(2) The employer shall regularly consult employees required to use respirators to assess the employees' views on program effectiveness and to identify any problems. Any problems that are identified during this assessment shall be corrected. Factors to be assessed include, but are not limited to:

(A) Respirator fit (including the ability to use the respirator without interfering with effective workplace performance);

(B) Appropriate respirator selection for the hazards to which the employee is exposed;

(C) Proper respirator use under the workplace conditions the employee encounters; and

(D) Proper respirator maintenance.

(m) Recordkeeping. This section requires the employer to establish and retain written information regarding medical evaluations, fit testing, and the respirator program. This information will facilitate employee involvement in the respirator program, assist the employer in auditing the adequacy of the program, and provide a record for compliance determinations by OSHA.

(1) Medical evaluation. Records of medical evaluations required by this section must be retained and made available in accordance with section 3204.

(2) Fit testing.

(A) The employer shall establish a record of the qualitative and quantitative fit tests administered to an employee including:

1. The name or identification of the employee tested;

2. Type of fit test performed;

3. Specific make, model, style, and size of respirator tested;

4. Date of test; and

5. The pass/fail results for QLFTs or the fit factor and strip chart recording or other recording of the test results for QNFTs.

(B) Fit test records shall be retained for respirator users until the next fit test is administered.

(3) A written copy of the current respirator program shall be retained by the employer.

(4) Written materials required to be retained under this subsection shall be made available upon request to affected employees and to the Chief or designee for examination and copying.

(n) Dates.

(1) Effective date. This section is effective 90 days from filing. The obligations imposed by this section commence on the effective date unless otherwise noted in this subsection. Compliance with obligations that do not commence on the effective date shall occur no later than the applicable start-up date.

(2) Compliance dates. All obligations of this section commence on the effective date except as follows:

(A) The determination that respirator use is required (subsection (a)) shall be completed no later than 150 days from the effective date.

(B) Compliance with provisions of this section for all other provisions shall be completed no later than 180 days from the effective date.

(3) Existing Respiratory Protection Programs. If, in the 12 month period preceding the effective date, the employer has conducted annual respirator training, fit testing, respirator program evaluation, or medical evaluations, the employer may use the results of those activities to comply with the corresponding provisions of this section, providing that these activities were conducted in a manner that meets the requirements of this section.

(o) Appendices. Compliance with Appendix A, Appendix B-1, Appendix B-2, Appendix C, and Appendix D is mandatory.

NOTE

Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

Title 15, Article 3, Section 1028

1028. Fire and Life Safety Staff.

Pursuant to Penal Code Section 6030(c), effective January 1, 1980, whenever there is an inmate in custody, there shall be at least one person on duty at all times who meets the training standards

established by the Board of Corrections for general fire and life safety which relate specifically to the facility.

Guideline: Please see **Section 1020, Corrections Officer Core Course; Section 1024, Court Holding and Temporary Holding Facility Training; Section 1029, Policy and Procedures Manual; and Section 1032, Fire Suppression Preplanning** for related material and considerations.

There must be at least one staff member on every shift who is trained in fire and life safety. Although the regulation requires only one member of the staff on duty to be trained, it is recommended that all facility staff be trained in fire and life safety. The training should include the use of self-contained breathing apparatus if required by the local fire authority or if this equipment is available to staff. Staff should know the location of fire doors, barriers, evacuation procedures and be able to use fire hoses and extinguishers.

The facility manager should consult with the local fire authority for assistance when developing the required training. Core course training modules (**Section 1020, Corrections Officer Core Course**) provide the description, performance objectives and content necessary for handling emergencies such as floods, earthquakes, etc. That training module also covers fire and life safety training. Annual training courses with in-depth fire and life safety curriculum should also be considered. Additionally, the Board of Corrections, in conjunction with the State Fire Marshal, published the documents **Fire and Life Safety in Local Juvenile and Adult Detention Facilities: An Instructor's Manual** and **Regulations and Guidelines for Construction of Detention Facilities**, which address fire and life safety issues. Copies of these documents are available from the Board of Corrections.

Penal Code Section 6030

6030. (a) The Board of Corrections shall establish minimum standards for local detention facilities by July 1, 1972. The Board

of Corrections shall review such standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety,

security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training.

(c) Such standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) In establishing minimum standards, the Board of Corrections shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in local detention facilities:

The Department of Corrections, the Department of the Youth Authority, local juvenile justice commissions, local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections, the Department of the Youth Authority, local correctional officials, and other interested persons.

CORE Fire & Life Safety Training Module (Correctional Academy)

MODULE 20.2: FIRE AND LIFE SAFETY

Instructional Time: 8 hours

INSTRUCTIONAL OBJECTIVES:

- 20.2.1 Describe the elements of inspecting for and maintaining fire safety in a correctional facility taking into account such aspects as the following:
- • construction
 - • exits
 - • mechanical and electrical devices and wiring
 - • housekeeping
 - • fire extinguishing and alarm equipment
 - • training and planning
- 20.2.1 20.2.2 Identify steps in responding to a fire in a correctional facility:
- • determine severity, scope, type and cause
 - • call for assistance and/or alert other staff
 - • extinguish fire, if possible
 - • evacuate inmates, if necessary
 - • follow evacuation steps according to facility-specific evacuation plan, i.e., know facility smoke control zones
 - • notify outside agencies, chain of command
- 20.2.2 20.2.3 Match different types of fires with extinguishing equipment appropriate for each.
- 20.2.3 20.2.4 Explain how an automatic sprinkler system operates (e.g., not all sprinkler heads operate at the same time).
- 20.2.4 20.2.5 Identify possible dangers from the spread of smoke and gases in the facility.
- 20.2.5 20.2.6 Explain the concept of and procedures for isolating and confining to the area of origin fire, smoke and gases in a correctional facility taking into account the following:
- • fire walls and doors
 - • proper maintenance of fire door latches and hardware
 - • prevention of obstacles near fire doors
 - • stairways and shafts
- 20.2.6 20.2.7 Using actual or sample hose lengths (2-3 feet), describe two types of fire hoses and explain how they are turned on and used in a correctional facility.
- • linen
 - • jacketed
- 20.2.7 20.2.8 Using actual or sample fire hose nozzles most commonly found in a correctional facility, demonstrate how the three types of nozzles are turned on and used.
- • straight nozzle (without shut-off valve)
 - • straight nozzle (with shut-off valve)
 - • spray nozzle (with controls)
- 20.2.8 20.2.9 Explain the major mistakes involved in the use of self-contained breathing apparatus (SCBA) including:
- • not recognizing the need for safety of person using SCBA
 - • putting on mask before turning on oxygen
 - • failure to heed warning alarm indicating oxygen is running out
 - • failure to put back SCBA in proper position and/or not refilling
 - • failure to practice regularly (i.e., every 30 days)
- 20.2.9 20.2.10 Demonstrate the use of fire extinguishing equipment on a simulated or demonstration fire.

20.2.10 20.2.11 Demonstrate the use of self-contained breathing apparatus (SCBA). In approximately 60 seconds, trainees must:

- • put on tank with straps
- • turn on air
- • put on and secure mask
- • get air through unit
- • keep on for approximately 5 minutes
- • accurately read gauge

Medical Questionnaire:

Regulations (Standards - 29 CFR)

OSHA Respirator Medical Evaluation Questionnaire (Mandatory). - 1910.134AppC

□ [OSHA Regulations \(Standards - 29 CFR\) - Table of Contents](#)

-
- **Standard Number:** 1910.134AppC
 - **Standard Title:** OSHA Respirator Medical Evaluation Questionnaire (Mandatory).
 - **SubPart Number:** I
 - **SubPart Title:** Personal Protective Equipment
-

Appendix C to Sec. 1910.134: OSHA Respirator Medical Evaluation Questionnaire (Mandatory)

To the employer: Answers to questions in Section 1, and to question 9 in Section 2 of Part A, do not require a medical examination.

To the employee:

Can you read (circle one): Yes/No

Your employer must allow you to answer this questionnaire during normal working hours, or at a time and place that is convenient to you. To maintain your confidentiality, your employer or supervisor must not look at or review your answers, and your employer must tell you how to deliver or send this questionnaire to the health care professional who will review it.

Part A. Section 1. (Mandatory) The following information must be provided by every employee who has been selected to use any type of respirator (please print).

1. Today's date: _____

2. Your name: _____

3. Your age (to nearest year): _____

4. Sex (circle one): Male/Female

5. Your height: _____ ft. _____ in.

6. Your weight: _____ lbs.

7. Your job title: _____

8. A phone number where you can be reached by the health care professional who reviews this questionnaire (include the Area Code): _____

9. The best time to phone you at this number: _____

10. Has your employer told you how to contact the health care professional who will review this questionnaire (circle one): Yes/No

11. Check the type of respirator you will use (you can check more than one category):

a. _____ N, R, or P disposable respirator (filter-mask, non- cartridge type only).

b. _____ Other type (for example, half- or full-facepiece type, powered-air purifying, supplied-air, self-contained breathing apparatus).

12. Have you worn a respirator (circle one): Yes/No

If "yes," what type(s): _____

Part A. Section 2. (Mandatory) Questions 1 through 9 below must be answered by every employee who has been selected to use any type of respirator (please circle "yes" or "no").

1. Do you **currently** smoke tobacco, or have you smoked tobacco in the last month: Yes/No
2. Have you **ever had** any of the following conditions?
 - a. Seizures (fits): Yes/No
 - b. Diabetes (sugar disease): Yes/No
 - c. Allergic reactions that interfere with your breathing: Yes/No
 - d. Claustrophobia (fear of closed-in places): Yes/No
 - e. Trouble smelling odors: Yes/No
3. Have you **ever had** any of the following pulmonary or lung problems?
 - a. Asbestosis: Yes/No
 - b. Asthma: Yes/No
 - c. Chronic bronchitis: Yes/No
 - d. Emphysema: Yes/No
 - e. Pneumonia: Yes/No
 - f. Tuberculosis: Yes/No
 - g. Silicosis: Yes/No
 - h. Pneumothorax (collapsed lung): Yes/No
 - i. Lung cancer: Yes/No
 - j. Broken ribs: Yes/No
 - k. Any chest injuries or surgeries: Yes/No
 - l. Any other lung problem that you've been told about: Yes/No
4. Do you **currently** have any of the following symptoms of pulmonary or lung illness?
 - a. Shortness of breath: Yes/No
 - b. Shortness of breath when walking fast on level ground or walking up a slight hill or incline: Yes/No
 - c. Shortness of breath when walking with other people at an ordinary pace on level ground: Yes/No
 - d. Have to stop for breath when walking at your own pace on level ground: Yes/No
 - e. Shortness of breath when washing or dressing yourself: Yes/No
 - f. Shortness of breath that interferes with your job: Yes/No
 - g. Coughing that produces phlegm (thick sputum): Yes/No

- h. Coughing that wakes you early in the morning: Yes/No
 - i. Coughing that occurs mostly when you are lying down: Yes/No
 - j. Coughing up blood in the last month: Yes/No
 - k. Wheezing: Yes/No
 - l. Wheezing that interferes with your job: Yes/No
 - m. Chest pain when you breathe deeply: Yes/No
 - n. Any other symptoms that you think may be related to lung problems: Yes/No
5. Have you **ever had** any of the following cardiovascular or heart problems?
- a. Heart attack: Yes/No
 - b. Stroke: Yes/No
 - c. Angina: Yes/No
 - d. Heart failure: Yes/No
 - e. Swelling in your legs or feet (not caused by walking): Yes/No
 - f. Heart arrhythmia (heart beating irregularly): Yes/No
 - g. High blood pressure: Yes/No
 - h. Any other heart problem that you've been told about: Yes/No
6. Have you **ever had** any of the following cardiovascular or heart symptoms?
- a. Frequent pain or tightness in your chest: Yes/No
 - b. Pain or tightness in your chest during physical activity: Yes/No
 - c. Pain or tightness in your chest that interferes with your job: Yes/No
 - d. In the past two years, have you noticed your heart skipping or missing a beat: Yes/No
 - e. Heartburn or indigestion that is not related to eating: Yes/ No
 - f. Any other symptoms that you think may be related to heart or circulation problems: Yes/No
7. Do you **currently** take medication for any of the following problems?
- a. Breathing or lung problems: Yes/No
 - b. Heart trouble: Yes/No
 - c. Blood pressure: Yes/No
 - d. Seizures (fits): Yes/No
8. If you've used a respirator, have you **ever had** any of the following problems? (If you've never used a respirator, check the following space and go to question 9:)

- a. Eye irritation: Yes/No
- b. Skin allergies or rashes: Yes/No
- c. Anxiety: Yes/No
- d. General weakness or fatigue: Yes/No
- e. Any other problem that interferes with your use of a respirator: Yes/No

9. Would you like to talk to the health care professional who will review this questionnaire about your answers to this questionnaire: Yes/No

Questions 10 to 15 below must be answered by every employee who has been selected to use either a full-facepiece respirator or a self-contained breathing apparatus (SCBA). For employees who have been selected to use other types of respirators, answering these questions is voluntary.

10. Have you **ever lost** vision in either eye (temporarily or permanently): Yes/No

11. Do you **currently** have any of the following vision problems?

- a. Wear contact lenses: Yes/No
- b. Wear glasses: Yes/No
- c. Color blind: Yes/No
- d. Any other eye or vision problem: Yes/No

12. Have you **ever had** an injury to your ears, including a broken ear drum: Yes/No

13. Do you **currently** have any of the following hearing problems?

- a. Difficulty hearing: Yes/No
- b. Wear a hearing aid: Yes/No
- c. Any other hearing or ear problem: Yes/No

14. Have you **ever had** a back injury: Yes/No

15. Do you **currently** have any of the following musculoskeletal problems?

- a. Weakness in any of your arms, hands, legs, or feet: Yes/No
- b. Back pain: Yes/No
- c. Difficulty fully moving your arms and legs: Yes/No
- d. Pain or stiffness when you lean forward or backward at the waist: Yes/No
- e. Difficulty fully moving your head up or down: Yes/No
- f. Difficulty fully moving your head side to side: Yes/No
- g. Difficulty bending at your knees: Yes/No
- h. Difficulty squatting to the ground: Yes/No
- i. Climbing a flight of stairs or a ladder carrying more than 25 lbs: Yes/No

- j. Any other muscle or skeletal problem that interferes with using a respirator: Yes/No

Part B Any of the following questions, and other questions not listed, may be added to the questionnaire at the discretion of the health care professional who will review the questionnaire.

1. In your present job, are you working at high altitudes (over 5,000 feet) or in a place that has lower than normal amounts of oxygen: Yes/No

If "yes," do you have feelings of dizziness, shortness of breath, pounding in your chest, or other symptoms when you're working under these conditions: Yes/No

2. At work or at home, have you ever been exposed to hazardous solvents, hazardous airborne chemicals (e.g., gases, fumes, or dust), or have you come into skin contact with hazardous chemicals: Yes/No

If "yes," name the chemicals if you know them: _____

3. Have you ever worked with any of the materials, or under any of the conditions, listed below:

- a. Asbestos: Yes/No
- b. Silica (e.g., in sandblasting): Yes/No
- c. Tungsten/cobalt (e.g., grinding or welding this material): Yes/No
- d. Beryllium: Yes/No
- e. Aluminum: Yes/No
- f. Coal (for example, mining): Yes/No
- g. Iron: Yes/No
- h. Tin: Yes/No
- i. Dusty environments: Yes/No
- j. Any other hazardous exposures: Yes/No

If "yes," describe these exposures: _____

4. List any second jobs or side businesses you have: _____

5. List your previous occupations: _____

6. List your current and previous hobbies: _____

7. Have you been in the military services? Yes/No

If "yes," were you exposed to biological or chemical agents (either in training or combat): Yes/No

8. Have you ever worked on a HAZMAT team? Yes/No

9. Other than medications for breathing and lung problems, heart trouble, blood pressure, and seizures mentioned earlier in this questionnaire, are you taking any other medications for any reason (including over-the-counter medications): Yes/No

If "yes," name the medications if you know them: _____

10. Will you be using any of the following items with your respirator(s)?

- a. HEPA Filters: Yes/No
- b. Canisters (for example, gas masks): Yes/No
- c. Cartridges: Yes/No

11. How often are you expected to use the respirator(s) (circle "yes" or "no" for all answers that apply to you)?:

- a. Escape only (no rescue): Yes/No
- b. Emergency rescue only: Yes/No
- c. Less than 5 hours **per week**: Yes/No
- d. Less than 2 hours **per day**: Yes/No
- e. 2 to 4 hours per day: Yes/No
- f. Over 4 hours per day: Yes/No

12. During the period you are using the respirator(s), is your work effort:

- a. **Light** (less than 200 kcal per hour): Yes/No

If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.

Examples of a light work effort are **sitting** while writing, typing, drafting, or performing light assembly work; or **standing** while operating a drill press (1-3 lbs.) or controlling machines.

- b. **Moderate** (200 to 350 kcal per hour): Yes/No

If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.

Examples of moderate work effort are **sitting** while nailing or filing; **driving** a truck or bus in urban traffic; **standing** while drilling, nailing, performing assembly work, or transferring a moderate load (about 35 lbs.) at trunk level; **walking** on a level surface about 2 mph or down a 5-degree grade about 3 mph; or **pushing** a wheelbarrow with a heavy load (about 100 lbs.) on a level surface.

- c. **Heavy** (above 350 kcal per hour): Yes/No

If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.

Examples of heavy work are **lifting** a heavy load (about 50 lbs.) from the floor to your waist or shoulder; working on a loading dock; **shoveling**; **standing** while bricklaying or chipping castings; **walking** up an 8-degree grade about 2 mph; climbing stairs with a heavy load (about 50 lbs.).

13. Will you be wearing protective clothing and/or equipment (other than the respirator) when you're using your respirator: Yes/No

If "yes," describe this protective clothing and/or equipment: _____

14. Will you be working under hot conditions (temperature exceeding 77 deg. F): Yes/No

15. Will you be working under humid conditions: Yes/No

16. Describe the work you'll be doing while you're using your respirator(s):

17. Describe any special or hazardous conditions you might encounter when you're using your respirator(s) (for example, confined spaces, life-threatening gases):

18. Provide the following information, if you know it, for each toxic substance that you'll be exposed to when you're using your respirator(s):

Name of the first toxic substance: _____

Estimated maximum exposure level per shift: _____

Duration of exposure per shift: _____

Name of the second toxic substance: _____

Estimated maximum exposure level per shift: _____

Duration of exposure per shift: _____

Name of the third toxic substance: _____

Estimated maximum exposure level per shift: _____

Duration of exposure per shift: _____

The name of any other toxic substances that you'll be exposed to while using your respirator:

19. Describe any special responsibilities you'll have while using your respirator(s) that may affect the safety and well-being of others (for example, rescue, security):

[63 FR 1152, Jan. 8, 1998; 63 FR 20098, April 23, 1998]

☐ [OSHA Regulations \(Standards - 29 CFR\)](#)

Administrative Case Decisions:

Case 1

In the Matter of the Appeal of: MOORE ROOM, Employer

DOCKET 00-R2D2-3415

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS
BOARD

2001 CA OSHA App. Bd. LEXIS 190

September 27, 2001

OPINION BY: Dennis M. Sullivan, Administrative Law Judge

OPINION:

[*1] **DECISION**

Background and Jurisdictional Information

Between April 21 and August 18, 2000, the Division of Occupational Safety and Health (the Division) conducted a complaint inspection at a place of employment maintained by Employer at 19266 Rawhide Road, Jamestown, California (the site).

On September 14, 2000, the Division issued to Employer the following citation, items and proposed penalties for alleged violations of the occupational safety and health standards and orders found in Title 8, California Code of Regulations: n1

Cit/Item	Section	Type	Penalty
1/1	5144(e)(1) [respirator medical evaluation]	General	\$ 85
1/2	5144(f)(1) [respirator fit testing]	General	\$ 85
1/3	5194(h)(1) [hazardous substance training]	General	\$ 85
1/4	5144(h)(2) [respirator storage]	General	\$ 85
1/5	3668(a)(1) [industrial truck operator training]	General	\$ 260
1/6	3660(a) [displaying rated capacity of industrial vehicles]	General	\$ 260

-----Footnotes-----

n1 Unless otherwise indicated, all references are to sections of Title 8. California Code of Regulations.

-----End Footnotes----- [*2]

Employer filed a timely appeal that, as clarified at the hearing, contested the existence of the alleged violations and reasonableness of the proposed penalties.

On August 17, 2001, this matter came on regularly for hearing before Dennis M. Sullivan, Administrative Law Judge for the Occupational Safety and Health Appeals Board in Stockton, California. Thomas Gillis, Attorney, represented Employer. Chris Grossgart, Attorney, represented the Division. The parties presented oral and documentary evidence and the matter was submitted that day.

Law and Motion

Due to a clerical error "5194" was omitted from the designation of the safety order violated in Citation 1, Item 3. To correct that error, the Division moved at the hearing, without opposition, to amend Citation 1, Item 3 to change the safety order designation from "(h)(1)" to "5194(h)(1)." The motion was granted and Citation 1, Item 3 was so amended.

To clarify its appeal, Employer moved, without opposition, to amend its appeal to include "the safety order was not violated" as a specific ground. The motion was granted and the appeal was so amended.

Docket 00-R2D2-3415

Citation 1, Item 1, General, § 5144(e)(1)

[*3] Citation 1, Item 2, General, § 5144(f)(1)

Citation 1, Item 4, General § 5144(h)(2)

[Respiratory Protection]

Summary of Evidence

Employer manufactures metal sheds at the site. Citation 1, Item 1 was issued because Employer did not have employees medically evaluated to determine if they were fit to wear respirators before allowing them to do so. Citation 1, Item 2 was issued because employees were allowed to use respirators without passing an appropriate qualitative or quantitative fit test. Citation 1, Item 4 was issued because respirators were not stored to prevent deformation and contamination.

Marie Blake, the Division's inspecting associate industrial hygienist, testified that she initiated her inspection at the site on April 21, 2000 in response to a complaint of alleged unsafe conditions received by the Division. She conducted an opening conference with Employer's manager, Mike Allott and interviewed employees, including Anthony Allary, who was introduced as a foreman. Allary accompanied Blake as she inspected the site.

She observed an uncovered respirator lying on a table in front of a microwave oven in the employees' lunchroom. The respirator was dirty inside [*4] and out, it had no sanitary protective covering and there were other objects on the table. (Division Exhibit 9) It appeared to have been left there, no employees were around.

Blake observed a second uncovered respirator hanging by its straps from a hook on a shelving unit in a storage area near where painting was done. The shelving unit from which it was suspended contained paint and chemicals. They could contaminate the respirator and hanging it by its straps tended to deform the facepiece and affect its fit.

Blake testified that the filter cartridges on the respirators were disposable but not the respirator masks. She did not observe any employee use a respirator to weld, paint or solder. But Allary informed her that employees who had not been medically evaluated used the respirators for those purposes without having them fit-tested.

Based on Blake's investigative findings, the Division issued Citation 1, Items 1, 2 and 4, because the employees had not been medically evaluated to determine if respirator use posed a health threat for them, they had not fit-tested the respirators, and the respirators were not properly stored. Blake added that the \$ 85 penalties proposed for the violations [*5] had been calculated in accordance with the Director's penalty setting regulations.

The Division called Anthony Allary as a witness. He testified that he was working for Employer at the site as a supervisor when Blake conducted her inspection.

According to Allary, Employer originally used gauze masks for respiratory protection and later provided the "throw away" or disposable type respirators Blake saw in the lunchroom and storage area. The respirator in the lunchroom belonged to Jimmie Bonham who used it when spray-painting metal shed components. Bonham was supposed to put the respirator in a "package" provided by the manufacturer when he was through using it, but he did not always do that. Bonham left work early on the day of the inspection and, apparently, forgot about the respirator in the lunchroom.

Allary did not know which employee had been assigned the respirator shown hanging from the shelving unit in Division Exhibit 10.

Allary was Bonham's supervisor before the inspection. He was at the site nearly every day and was responsible for training the employees he supervised. He showed Bonham how to put on the respirator and adjust the straps. But, neither Allary nor, to his knowledge, [*6] any other representative of Employer, had Bonham medically evaluated or performed a test to ensure that there was a tight seal between Bonham's face and the perimeter of the mask before allowing Bonham to use the respirator to spray-paint metal shed parts with black enamel paint containing hazardous substances.

Employer called Mike Allott as a witness. He has managed the metal building operation at the site for approximately 5 years. Before that he operated a garage and, at the garage, had experience dealing with hazardous substances. He testified that he contacted the Division's Concord District office 4 times after the citations were issued, in an unsuccessful attempt to set up an informal conference. He also testified that Allary was not a supervisor. Allary was a lead person and quality control checker who did some training but did not supervise employees.

Allott did not think that respiratory protection was required by safety order for employees spray-painting in open, outdoor areas. Employer spray-painted all of the metal building frames outdoors. Allott recommended to employees that they use respirators when painting outdoors, but left the choice to them.

To his understanding, [*7] Bonham used a respirator while painting. He did not think that Bonham had been medically evaluated to determine if wearing a respirator would jeopardize his health. Allott identified the signatures on the sign-up list for those who attended the March 9, 2000 painting safety meeting (Division Exhibit 4, p. 4) as his own, his son's and Jimmie Bonham's.

Findings and Reasons for Decision

Citation 1, Item 1, General, § 5144(e)(1)

Citation 1, Item 2, General, § 5144(f)(1)

Citation 1, Item 4, General § 5144(h)(2)

ITEMS 1 [MEDICAL EVALUATION], 2 [FITTESTING] AND 4 [PROPER STORAGE] ARE REQUIREMENTS THAT ARE RELEVANT TO SAFE AND HEALTHFUL USE OF RESPIRATORY PROTECTION. HAVING PROVIDED EMPLOYEES WITH THE RESPIRATORS, EMPLOYER WAS OBLIGATED TO COMPLY WITH THOSE REQUIREMENTS. IT DID NOT. THE GENERAL VIOLATIONS OF § § 5144(e)(1), 5144(f)(1) AND 5144(h)(2) ALLEGED IN THOSE ITEMS WERE ESTABLISHED.

THE \$ 85 PENALTIES PROPOSED FOR THE VIOLATIONS ARE REASONABLE.

It was undisputed that Employer provided employees with the respirators for their use while spray-painting and soldering. Allott's unrefuted testimony that he recommended but did not require employees to wear [*8] respirators while spray-painting outdoors because he did not believe that respiratory protection was required under those circumstances is credited. Nonetheless, if an employer provides an employee with a respirator and allows him to use it, the employer "is not free to ignore relevant safety and health requirements applicable to that safety device even though the device is not technically required." (Tulip Corporation, dba Automotive Battery Products Co., OSHAB 81-773, Decision After Reconsideration (June 25, 1982).)

Under this ruling, once Employer provided the respirators it had to comply with the "relevant safety and health requirements" applicable to them. The requirements cited in Items 1 [medical evaluation], 2 [fittesting] and 4 [proper storage] are relevant to safe and healthful use of respiratory protection.

Manager Allott maintained that Allary was a lead person and quality control checker rather than a supervisor, but acknowledged that he did train employees. But the absence of a specific and detailed explanation of the duties and responsibilities he intended to ascribe to Allary by using the terms "lead person" and "quality control checker," either through additional [*9] testimony or by production of a written job description, diminished the probative value of Allott's testimony on this point.

Moreover, Allary's authority and responsibilities, not his job title, determine if he was a supervisor. (Chevron, USA, Inc., OSHAB 89-283, Decision After Reconsideration (Feb. 8, 1991))

Allary's testimony that he was responsible for training other employees to wear respirators and operate equipment, for directing their work and for ensuring that they performed their work in accordance with the training he provided, is credited. It was sufficient to prove that Allary was a supervisor within the

Cal/OSHA meaning of that term. For these reasons it is found that Allary was proven to be a supervisor by a preponderance of the evidence.

Item 1--Medical Evaluation

In Item 1, Employer was cited under § 5144(e)(1) which reads as follows:

"The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use a respirator in the workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator."

Supervisor [*10] Allary testified that Jimmie Bonham and other employees who used respirators were not medically evaluated before Employer allowed them to wear respirators while spray-painting and soldering. Manager Allott conceded that, to his knowledge, Bonham had not been medically evaluated. Compliance Officer Blake testified that Bonham and other employees she interviewed during her inspection told her that they had not been medically evaluated. Employer presented no evidence tending to prove that employees using respirators had been evaluated. Consequently, it is found that the Division proved the existence of the general violation of § 5144(e)(1) alleged in Item 1.

Item 2--Fit-Testing

In Item 2 Employer was cited under § 5144(f)(1) which provides that, "the employer shall ensure that employees using a tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or Quantitative fit test (QNFT) as stated in this subsection."

The respirators used by employees at the site, as depicted in Division Exhibits 9 and 10, had "tight-fitting facepieces" rather than hoods or helmets to prevent inhalation of hazardous substances.

Supervisor Allary testified that he that he was [*11] Jimmie Bonham's supervisor and was at the site almost every day; that he spent approximately 10 minutes showing Bonham how to use a respirator but did not perform a fit-test; and, that, to his knowledge, neither Mike Allott nor any other Employer representative had ensured that Bonham's respirator had been fit-tested.

Allary disagreed with Blake's testimony that the respirators were designed for long-term use and had filter cartridges that could be removed and replaced periodically. He said the filter cartridges were not replaceable. The respirators were completely disposable. Employees used them for a week or so and threw them away.

Allott, Employer's witness, testified that he believed that Bonham used a respirator. He did not testify that he or any Employer representative other than Allary had anything to do with preparing Bonham to use a respirator.

Compliance Officer Blake testified that when she interviewed Bonham during her inspection, he told her that his respirator had not been fit-tested.

Having considered the totality of the evidence presented on this point, it is found that the Division proved that Employer did not ensure that an employee who used a respirator had gone [*12] through a fit-test before doing so. Based upon that finding, it is further found that the Division established the general violation of § 5144(f)(1) alleged in Item 2.

Item 4--Respirator Storage

In Item 4, Employer was charged with a general violation of § 5144(h)(2). It provides, in pertinent part, that, "all respirators shall be stored to protect them from damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals, and they shall be packed or stored to prevent deformation of the facepiece and exhalation valve."

The two respirators observed and photographed by Compliance Officer Blake were not being used by employees and were not under the immediate custody or control of employees. One of the respirators was assigned to painter, Jimmie Bonham. It was lying, exposed, on a table top in the lunchroom and Allary testified that Bonham had left work early that day, before Blake found the respirator. There were no signs of impending use of the respirator hanging by its straps from a shelving unit either. It is inferred that both respirators were not in use at the time of the inspection, that their use was not imminent, and that they were

[*13] to remain where they were until their next use, which, at least in Bonham's case, would not occur until the following workday.

No definition of "to store" or "storage" is found in the safety orders. Undefined terms are to be given their ordinary or commonly understood meaning. (See *In re Rojas* (1979) 23 Cal.3d 152,155, and *Sierra Production Service, Inc.*, OSHAB 84-1227, Decision After Consideration (Aug. 13, 1987).) The first definition of "store" or "to store" in Webster's New World Dictionary, 3rd College Edition (1989), p. 1322, is "to put aside, or accumulate, for use when needed."

Compliance Officer Blake's testimony, the photographs she took, and supervisor Allary's testimony that Bonham and other employees sometimes left their respirators lying about in the plant overnight is sufficient to prove that the respirators Blake observed had been put aside for use when needed. Accordingly, it is found that they were "stored".

Allott's testimony that the respirators were disposable is credited, but disposable respirators are not excepted from the requirements of § 5144(h)(2). Allary testified that, typically, employees used the respirators for a week or more before disposing [*14] of them. Physical damage and dust and chemical contamination can occur quickly if respirators are left exposed to such hazards, and a user may begin to experience the effects the next time he or she uses the respirator.

The respirator in the lunchroom was unprotected and on a table in front of a microwave oven where it was subject to damage by people using the oven and contact with other objects on the table. The respirator suspended from the shelving unit is surrounded by previously opened cans of black paint and a large metal container with a hazard warning on it. Blake testified that hanging the respirator by its facepiece adjustment straps could deform the facepiece and compromise the seal between it and the user's face. It is found that the respirators were not stored in a manner that provided the protection required by § 5144(h)(2)(A). Supervisor Allary's testimony established that Jimmie Bonham and other employees wore the respirators in the ordinary course of their work. A general violation of § 5144(h)(2)(A) is found to exist.

Penalties

The parties stipulated that the \$ 85 penalties proposed for Items 1, 2 and 4 were calculated in accordance with the Director's Penalty [*15] Setting Regulations. Upon consideration of that stipulation and the evidence proving the general violations, the penalties are found to be reasonable.

Citation 1, Item 3, General, § 5194(h)(1)

[Hazardous Substance Training]

Summary of Evidence

Compliance Officer Blake testified for the Division. During her April 24, 2000, inspection, she presented Allott with a "Document Request Sheet" (Division Exhibit 3) that asked Employer to provide the Division with, among other things, its records of employee training concerning hazardous substances, forklift safety and respiratory protection. In response, Employer sent the Division a copy of its chemical inventory and MSDSs for phosphoric acid (Division Exhibit 5), black enamel (Division Exhibit 6), economy thinner 2-66 (Division Exhibit 7) and 50/50 solder (Division Exhibit 8), which were listed on the inventory. All of these products contain hazardous substances. Blake saw containers of black enamel paint at the site and was informed that it was used to paint metal shed components fabricated by Employer.

Employer's chemical inventory (Division Exhibit 4) states that employees were to receive hazard communication training concerning [*16] the four above-described products and that the training was to be documented. However, Employer's response to the request for training documentation consisted of a single document indicating that Allott met with his son and Bonham on March 9, 2000, and covered with them the subject of "Painting Safety and Safe Handling of Related Materials." According to Blake, two employees Employer identified to her as users of products on the chemical inventory were not listed as having attended the meeting. Thus, Blake concluded that Employer had not provided employees with the information and training on hazardous substances in their work area that is required by § 5194 (h)(1), and this led to issuance of Citation 1, Item 3.

Allary testified as a Division witness that he did not attend the March 9, 2000 safety meeting concerning painting safety conducted by Allott. (Division Exhibit 4) To his knowledge, that meeting was the only training concerning hazardous substances that Employer had provided employees. Allary testified

that he was at the site most of the time, but he conceded that it was possible that Allott had provided some employee safety training when he was not there.

Bonham and another [*17] employee used the black enamel that is listed in its chemical inventory (Division Exhibit 4) and is the subject of the MSDS introduced as Division Exhibit 6, to spray-paint parts of the metal sheds Employer manufactured.

The 50/50 solder listed on the chemical inventory was used everyday by female employees who made lights. To Allary's knowledge, Employer had not provided them with instruction about the hazards associated with the solder.

Employer witness Allott identified Exhibit A as a photograph of three document and notice holders attached to an interior building wall at the site. He said that the papers visible in the document holders are safety information and training materials.

He said there was no employee exposure to the orthophosphoric acid listed on the chemical inventory. (Division Exhibit 4) The acid had not been used in 4 or 5 years and was stored under lock and key in a double walled container.

Allott identified pages 2 and 3 of Division Exhibit 4 as Employer's written hazard communication program. He pointed out that the fourth paragraph of the program states that employees may review MSDSs at the plant office, where they are available. Page 5 of Division Exhibit [*18] 4 is a "hazard communication employee training sign-up sheet." Allott testified that he provided the training described on the backside of the sign-up sheet on March 9, 2000. That was not the only training provided. Employee safety is very important to Employer. It is continually emphasized through informal discussion and instruction and by posting and making available written safety information. For example, the sixth page of Division Exhibit 4 is a notice to employees concerning access to MSDSs. Employer's parent company provided the notice and a copy of it was posted in the notice holders on the wall.

Case 2

24 of 100 DOCUMENTS

In the Matter of the Appeal of: CALIFORNIA STATE PRISON-SOLANO,
Employer

DOCKET(S) 99-R2D2-1787

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS
BOARD

2001 CA OSHA App. Bd. LEXIS 105

May 2, 2001

OPINION BY: JAMES WOLPMAN, Administrative Law Judge

OPINION:

[*1] **DECISION**

Background and Jurisdictional Information

Employer is a correctional institution located at 2100 Peabody Road in Vacaville, California. Between April 12 and 15, 1999, the Division of Occupational Safety and Health (Division), through Phillip Rathbun, conducted a complaint inspection at the facility. On June 10, 1999, the Division cited Employer for the following alleged violations of the occupational safety and health standards and orders found in Title 8, California Code of Regulations n1:

Proposed

Citation	Item	Section	Classification	Penalty n2
1	1	5144(c)	General	\$ 0
		[Instruction and training in respirator use]		
	2	5144(d)(2)	General	\$ 0
		[Inspecting and sanitizing emergency respirators]		
	3	5144(f)(1)	General	\$ 0
		[Written procedures for use of respirators]		
	4	5144(h)	General	\$ 0
		[Medical evaluation of respirator users]		

-----Footnotes-----

n1 Unless otherwise specified, all references are to sections of Title 8, California Code of Regulations.

n2 At the time the Citation issued, financial penalties were not assessed against public employers.

-----End Footnotes----- [*2]

Employer appealed in a timely fashion, contesting the time required to abate the violations.

The matter was presented for hearing before James Wolpman, Administrative Law Judge for the California Occupational Safety and Health Appeals Board, at Concord, California, on February 23 and April 19, 2001. Employer was represented by Michael Cevola, Chief of Health and Safety. The Division was represented by Christopher Grossgart, Staff Counsel. Oral and documentary evidence was introduced by the parties and the matter was submitted on April 19, 2001.

Law and Motion

At the opening of the hearing, Employer moved to withdraw its appeals to Item 1, 2 and 3 because abatement had been accomplished. The Division concurred. Because Employer's appeals were confined to the time necessary to complete the abatement of those citations, the motions were granted and the violations were deemed established and abated.

A copy of the order, dated March 15, 2001, granting the motion and establishing the violations is attached and incorporated herein.

The abatement of Citation 1, Item 4, remained in issue and is the subject of this decision.

Docket 99-R2D2-1787

Citation 1, Item 4, General, [*3] § 5144(h)

Summary of Evidence

Employer was cited for failing to provide medical evaluations for the correctional employees at Vacaville state prison who might be called upon to wear respirators in dealing with inmates. Employer does not contest the need for the evaluations but asserts that it lacks the funds to conduct them.

The basic facts are not in dispute. Several years ago the Department of Corrections determined that all correctional peace officers who deal with inmates should be equipped with MSA, Advantage 1000, Riot Control Agent Masks, full-face type, NIOSH approved for respiratory protection in atmospheres containing OC (pepper spray), CN and CS gasses, dusts, mists, fumes and radionuclides. The masks were obtained and a respiratory protection program was inaugurated.

At the Vacaville facility there are between 800 and 900 Correctional Peace Officers, of which 600 are classified as Correctional Officers. While the Correctional Officers have more direct contact with inmates, other Correctional Peace Officers have responsibilities which require that they, too, be qualified to utilize the riot control masks. All told, the Vacaville prison has under a 100 masks, stored [*4] at various locations around the facility.

The masks are used predominantly used during "calculated cell extractions"--the planned removal of disorderly or disturbed prisoners from their cells using a team of officers. The average cell-extraction takes between 30 and 40 minutes. Masks are also needed for more serious inmate disturbances. While no full-fledged riots have occurred at Vacaville, Correctional Peace Officers train for that possibility and wear masks while doing so.

The Advantage 1000, Riot Control Agent Mask is a full-face, negative pressure respirator which requires the wearer to use his or her own breathing to force air to pass through the filter by creating a negative pressure inside the respirator face-piece. Consequently, it requires more exertion than normal breathing. In cell-extractions, in riot situations, and in training for both, a correctional peace officer usually wears a protective vest, weighing 10-15 lbs., and may carry a light weight plastic shield and a baton. That equipment, plus the stress and physical exertion involved in dealing with hostile or uncooperative inmates, can pose serious health risks for officers with a potential for cardiovascular problems [*5] or restrictive air passage diseases, such as emphysema.

The safety order establishes a two step procedure for evaluating employees to determine whether respirator usage poses a medical risk. They first complete the medical questionnaire found in Appendix C of the safety order. Their responses are reviewed by a physician or other licensed health care professional to identify those in need of further evaluation. Those requiring follow-up are then scheduled for medical examinations which include the testing, consultation and/or diagnostics needed to address areas of concern.

After contacting other prison systems where medical evaluations were conducted, Corrections personnel estimated that approximately 10% of the officers who completed the questionnaire would require follow-up testing and consultation and about 10% of the follow-up examinees would be medically disqualified from wearing respirators.

Although the prison employs physicians and nurses qualified to perform the evaluations, it rejected the idea of using them because, with few exceptions, their responsibilities are confined to inmate care. Given their present workloads, possible problems with malpractice insurance, and concern [*6] over the labor relations issues which might arise if house staff were permitted to make medical judgments which might result in the termination or re-assignment of correctional officers, the authorities decided that it would be advisable to seek assistance from an outside medical group.

They determined that the best place to look would be among the medical groups, known as 30-Day Providers, who contract with the State to evaluate employees who file worker compensation claims. That way Corrections would be working with local groups with whom it had prior experience. Inquiries were made of the two 30-day provider organizations in the vicinity--Kaiser Permanente and North Bay Medical. Both were interested and provided cost estimates. North Bay's was lower. It estimated that reviewing the questionnaires and conducting the necessary follow-up testing and consultation would cost about \$ 24,000. (See Exhibit B.) That, together with the overtime costs which the prison estimated it would incur in providing substitutes for officers who required follow-up, n3 would be less than \$ 50,000.

-----Footnotes-----

n3 Travel and testing time of about 2 hours is estimated for each of the 80 officers requiring follow-up evaluation.

-----End Footnotes----- [*7]

Larry Norris, the Assistant Budget Officer for the Department, testified that the Department of Corrections has an annual budget of 4.8 billion dollars to cover its various programs and capital expenditures for the fiscal year (July 1 to June 30). Its budget must, like all state agencies, be submitted to and cleared by the Department of Finance. Initially, Corrections submitted a "Budget Change Proposal" to Finance, asking that funds be allocated to pay for evaluations throughout the state's 33 institutions, but the proposal was rejected. It followed with "Finance Letter" seeking reconsideration of the matter, but that, too, was denied. In so doing, the Department of Finance identified funds elsewhere in Correction's budget that could be used for the evaluations. Corrections, however, does not believe that those funds can appropriately be used for that purpose. One other procedure, known as a "Deficiency Request," was available to Corrections but was not attempted. n4 And there is no indication that funds had been sought solely for the Vacaville facility. Norris also conceded that the Department has a number of unfilled positions for which unexpended funds have been set aside in the [*8] current budget.

-----Footnotes-----

n4 At hearing, the Employer was requested to provide the documents submitted to and the responses received from Department of Finance. It declined to do so, asserting confidentiality. Since the Division chose not to force the issue by subpoenaing the documents, the asserted privilege was not tested. Such evidence as was produced came by way of unobjected-to hearsay from Norris.

-----End Footnotes-----

Norris acknowledged the possibility that, without going through the formal budgetary procedures, funds for the evaluations at Vacaville could be obtained by shifting moneys from other programs or within the Vacaville program. He testified, however, that Corrections is currently in operating in a "deficiency mode" at Vacaville and in all of the programs that might be used as a source of funds for the required evaluations. For a program to be in a deficiency mode means that not enough money has been set aside to cover its anticipated expenditures for the remainder of the fiscal year. Therefore, while moneys exist which could be [*9] shifted, the result would be a lack of funds for other budgeted expenses. n5

-----Footnotes-----

n5 Norris could identify no statutory or regulatory prohibition against shifting funds when a program is in a deficiency mode, only the policies of the Departments of Corrections and Finance.

-----End Footnotes-----

Norris further testified that when the budget for coming fiscal year is adopted--hopefully on or shortly after July 1, 2001--new funds will be available. n6 At that point, relevant programs will no longer be "in deficiency" and the Department will have discretion to shift funds around to provide the moneys needed to conduct the evaluations at Vacaville.

-----Footnotes-----

n6 In view of Norris' testimony, I do not accept the unexplained date of August 1, 2001, which appears on Exhibit C as the date funds will become available.

-----End Footnotes-----

Because the anticipated amount is less than \$ 75,000, the contract need not go [*10] out for competitive bidding. Kathleen Dickinson, the Associate Warden at Vacaville, estimated that it will take a month to complete negotiations for the scope of services and their price. A contract request will then be submitted to the Department's contract office.

Deborah Smith, a contact manager for the Department of Corrections, testified that, once the contract request is received, it takes between 30 and 45 days to complete the process. During that time, the contract documents are prepared and sent to the vendor, and the vendor reviews them and returns the signed contract together with necessary documentation to the Department, which then requires a week to review them and finalize the agreement. n7

-----Footnotes-----

n7 Should the final contract amount exceed \$ 75,000 two additional weeks are required for approval by the Department of General Services.

-----End Footnotes-----

At that point, the questionnaires can be circulated and, where necessary, follow-up procedures can begin.

Findings and Reasons for Decision

THE FAILURE TO ABATE THE [*11] VIOLATION PLACES OFFICERS WITH POTENTIAL CARDIOVASCULAR OR RESPIRATORY PROBLEMS AT RISK. THE SITUATION IS URGENT AND SHOULD BE CORRECTED AS SOON A POSSIBLE.

MEDICAL EVALUATIONS MUST BEGIN NO LATER THAN SEPTEMBER 1, 2001 AND MUST BE COMPLETED BY OCTOBER 31, 2001. SHOULD THE STATE BUDGET BE SIGNED BY THE GOVERNOR AFTER JULY 1, 2001, THE ABOVE DATES WILL BE EXTENDED BY THE NUMBER OF DAYS AFTER THE DATE THAT THE BUDGET IS SIGNED.

The Department of Corrections own witnesses estimated that 10% of the estimated 80 Correctional Peace Officers who require follow-up evaluation will be disqualified. That means that about 8 Officers at the Vacaville are at medical risk of serious cardiovascular or respiratory disease any time they are assigned to perform a planned cell extraction or participate in a training exercise requiring a respirator.

The Department has been aware of the risk at least since July 8, 1999, when it filed its Appeal, admitting the existence of the violation.

The Department contends that during that time--almost 2 full fiscal years--it could nowhere find \$ 50,000 either in its previous budget nor in its current \$ 4.8 billion dollar budget to perform the necessary [*12] evaluations to identify the officers at risk.

It blames the Department of Finance for denying its Budget Change Proposal and its Finance Letter, but admits that the funds could have been allocated from other programs at such times--usually early in a fiscal year--when the Department is not in a deficiency mode. And, even then, it admits that procedures exist to obtain funding where there is an urgent need.

The acknowledged medical possibility that eight correctional officers at Vacaville risk serious cardiovascular or respiratory problems every time they don a riot mask creates just such an urgent need.

The Department should immediately begin the negotiations and discussions needed to have a final contract proposal ready shortly after the State budget is signed. The Associate Warden's desire to wait until the budget is signed to undertake those negotiations is unacceptable in view of the Assistant Budget Officer's testimony that the necessary funds can be found when the Department emerges from its deficiency mode on July 1st or shortly thereafter.

I accept the Contract Manager's testimony that up to 45 days will then be required to finalize the contractual arrangement and begin the [*13] evaluation procedure. The evaluation itself should be completed within 2 months.

Decision

It is ordered that Vacaville's contract proposal be submitted to the Department of Corrections no later than July 15, 2001; that the contract be finalized and the evaluations begin no later than September 1, 2001; and that they be completed no later than October 31, 2001, except that if no budget is in place on July 1, 2001 the each deadline will be extended by the number of days which follow until the Governor signs the State Budget.

It is further ordered that the citations are established, modified, or withdrawn as indicated above and set forth in the attached Summary Table.

DATED: MAY 02 2001

In the Matter of the Appeal of: **CALIFORNIA STATE PRISION - SOLANO**, P.O. Box 4000, Vacaville, Ca 95696, Employer

DOCKET(S) 99-R2D2-1787

ORDER CONTINUING HEARING

Background and Jurisdictional Information

Between April 12 and 15, 1999, the Division of Occupational Safety and Health (Division), conducted an inspection at a place of employment maintained by Employer at 2100 Peabody Road, Vacaville, California (the site). On June 10, 1999, the Division cited Employer for the [*14] following alleged violations of the occupational safety and health standards and orders found in Title 8, California Code of Regulations n1:

Citation	Item	Section	Classification	Proposed Penalty
1	1	5144(c)	General	\$ 0
		[Training in use of respirators]		
	2	5144(d)(2)	General	0

3	[Monthly inspection of respirators] 5144(f)(1)	General	0
4	[Written respirator procedures] 5144(h)[(now (e))] [Testing of respirator users]	General	0

-----Footnotes-----

n1 Unless otherwise specified, all references are to sections of Title 8, California Code of Regulations.

-----End Footnotes-----

Employer appealed in a timely fashion, contesting the time allowed for the abatement of the violations

The hearing in the matter was opened before James Wolpman, Administrative Law Judge for the California Occupational Safety and Health Appeals Board, on February 23, 2001. Employer was represented by Michael Cevola, Chief of Health and Safety. The Division was represented by Christopher Grossgart, Staff Counsel.

The [*15] hearing was officially opened and the jurisdictional documents were received into evidence.

Employer moved to withdraw its appeals to Items 1, 2 and 3 because abatement had been accomplished, and the Division concurred. Because Employer's appeal was confined to the time necessary to complete the abatement, the motion was granted, and the violations were deemed established.

Employer's representative explained that the time for abatement for Item 4 was still at issue because its abatement requires a determination by a licensed physician that the correctional officers affected are physically able to perform their work while using the required respiratory equipment. He then went on to explain, under oath, the circumstances which make immediate abatement impossible. Because of the increasing problems with violence in the California prison system and because almost all correctional officers working at California prisons must be able to use the MSA, Advantage 1000, Riot Control Agent Masks, extensive testing will be required at substantial cost to the Department of Corrections. Because funds have not been allocated for that purpose in its current budget, a Budget Change Proposal was submitted [*16] Department of Finance. When the request was denied, the Department of Corrections submitted a Finance Letter asking that the Department of Finance reconsider its denial. A response to that request is expected by April 1, 2001.

For that reason and to allow the parties to formulate a timetable for what will have to be done and when it can be accomplished at the Vacaville facility, the hearing was continued. It was agreed that a status conference a status conference will be conducted by telephone conference call on March 20, 2001 at 10:00 a.m., and the hearing will reconvene on April 5, 2001 at 1:00 p.m. at the Division's Offices at 1465 Enea Circle, Building E, Suite 900, Concord, CA 94520. At that time--and to the extent possible--a plan and timetable for the abatement of Item 4 will be discussed and formulated.

DATED: March 15, 2001

JAMES WOLPMAN

Administrative Law Judge

Endnotes

1 Survey was of a sample of county correctional facilities in California. The survey was titled "California Board of Corrections 2000 Corrections Officer Job Analysis." The

purpose of the study was to determine the importance of Core equipment items in the facility.

2 The Federal OSHA guidelines and the California State Guidelines are almost identical; therefore, this paper refers to the California requirements.

<http://www.dir.ca.gov/title8/5144.html>

3 This training is provided to each employee in the Basic CORE Academy.

http://www.bdcorr.ca.gov/stc/core_training/selection%20and%20training/manuals/corrections_officer/section_d.htm

4 An Incipient fire is defined as one that can be extinguished using a standard fire extinguisher and can be done so without the use of SCBA's or special protective clothing.

<http://www.nfpa.org/Home/index.asp>

5 The standards for selection of SCBA's in correctional facilities will be the same throughout the State since the industry is standard and does not normally require employees to work in environments containing hazardous chemicals.

6 A manager ordered two employees to sandblast a car using silicon sand without the use of a SCBA. Both employees developed lung infections and sued the city.

7 Phone interview conducted by Capt. Dan Miller, Riverside County Sheriff's Department.

8 OSHA Technical Manual. Section VIII: Chapter 2. Respiratory Protection.

http://www.osha-slc.gov/dts/osta/otm/otm_toc.html

9 Ibid 7

10 Ibid 7

11 Ibid 7

12 Ibid 7, See appendix F for sample of Medical Questionnaire. Typically this is a one time test that can be done during the hiring process. Doctor and patient confidentiality does apply in this instance, therefore the employer management does not have access to the questionnaire results.

13 The Survivair, medium size face piece fits approximately 95% of human faces (with exceptions for required glasses and beards).

14 The OSHA recommended solution for cleaning is one milliliter of bleach to one liter of water.

15 SCBA's in correctional facilities fall under the classification of "for use in emergency situations."
